

**CITY OF VERO BEACH, FLORIDA  
MARCH 1, 2016 9:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Deacon John Dulop of Saint Sebastian Catholic Church followed by the Pledge of Allegiance to the flag.

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Jay Kramer, present; Vice Mayor Randy Old, present; Councilmember Pilar Turner, present; Councilmember Richard Winger, present and Councilmember Harry Howle, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mrs. Tammy Vock, City Clerk, requested that Council remove item 5-A) from the agenda at the request of the City Manager. She also asked that item 2D-2) be moved up on the agenda and heard before item 2C-1).

Mr. Howle made a motion to adopt the agenda as amended. Mr. Old seconded the motion and it passed unanimously.

**B. Proclamations and recognitions by Council**

**1. American Red Cross Month – March 2016**

Mayor Kramer read and presented the Proclamation.

**2. March for Meals Month – March 2016**

Mr. Old read and presented the Proclamation.

**3. National Foster Care Awareness Month – March 2016**

Mr. Howle read and presented the Proclamation.

**C. Staff/Consultant special reports and information items**

**1. Stormwater Utility Study**

Mr. Monte Falls, Public Works Director, stated that he and Mr. Mitts would be presenting the Stormwater Utility Study this morning. He will be asking the Council if they want staff to proceed with the study and what billing rate methodology they would like them to use. He made it clear that staff was taking no position on this.

Mr. Matt Mitts, Assistant City Engineer, and Mr. Falls gave a Power Point presentation (attached to the original minutes).

Mr. Old asked what restrictions are they under according to the legislation that will go into effect in 2018.

Mr. Falls said nothing yet. However, they do not know what the legislation is going to impose in 2018. He thought that in 2018 they will be told by the State the total number of nitrogen and phosphorous that is allowed to go into the lagoon.

Mr. Old asked what happens if they don't do this.

Mr. Falls explained that the "B" maps that have been adopted gives them the schedule being followed. He said they are trying to stay ahead of the curve.

Mr. Winger referred to the "B" maps and asked if they are intertwined with the good results they are seeing at the Water Plant.

Mr. Falls said they are intertwined. He said they have also stopped making discharges into the lagoon and they get credit for all of the nitrogen and phosphorous released into the lagoon through those discharges.

Mr. Winger asked if in 2018 they will be able do that. Mr. Falls said no one knows that for sure.

Mrs. Turner commented that in the Treasure Coast Regional Planning Council's paper on impediments to the "B" map they discussed the problem with getting any credits for stormwater filtering. She said they are spending a lot of money and they don't know if they have a system that states they will get those credits back.

Mr. Falls explained that they were trying to react to what is going on around them. They are presenting to Council the best guess moving forward.

Mayor Kramer asked if the legislation gives them the mechanics for the target that they want them to "hit." Mr. Falls said that now they allow certain reduction goals in each of the treatment that is being used, but it is up to technology to come up with things they can implement.

Mrs. Turner commented that the credit system certainly needs a lot of work.

Mr. Falls continued with the presentation giving the historical spending for the last five (5) years.

Mr. Winger asked in the last year how many pipes or culverts have failed.

Mr. Falls explained that they have had some failures come up in the maintenance of their system since the budget process in October. He said there is about \$150,000 needed for work that needs to be done. He will be bringing a budget amendment forward for that work.

Mr. Falls went over the funding goals summary. He said the current spending for repair and restoration is \$325,000 and the current revenue sources have been sales tax revenue. Possible revenue sources could be sales tax revenue, general fund tax revenue or stormwater utility. For the stormwater treatment (TMDL, improving the lagoon) the current spending is \$190,000 and the current revenue source is sales tax revenue grants. The proposed spending is \$500,000, which could come from sales tax revenue, general fund tax revenue, grants or stormwater utility. The last category was manpower and equipment for maintenance of the system. The current spending is \$700,000 with the revenue source being the general fund tax revenue. The proposed spending is \$700,000 with possible revenue sources coming from the general fund tax revenue.

Ms. Amelia Fontaine, Project Manager for Collective Water, went over the background and basis for a stormwater utility (included in her Power Point presentation). She said the next step is to select the rate structure to move forward with the utility rate study. She said staff recommends going forward with the impervious approach and the administration of it is easier.

Mrs. Turner commented that when she was looking at these charts she sees the portion for Indian River County School Board and asked if that also includes the County Administration building. Ms. Fontaine answered no. She said that falls into a couple of different categories in conservation. She said she could pull this information out and provide it to Council separately. Mrs. Turner explained the reason she asked this was because in the report it stated that government was a significant amount of the ERU's. Ms. Fontaine said that can be discussed further in the question and answer part of her presentation.

Ms. Fontaine went over the pros and cons of the billing methodology and each rate structure (included at the end of the presentation).

Mr. Winger commented that the average home would pay \$60.00 a year. Ms. Fontaine told him that was correct. Mr. Winger continued by saying that about half of the \$60.00, or \$30.00, is to maintain the system and the other half cut down the TMDL's going into the lagoon. Ms. Fontaine said that was her understanding.

Ms. Fontaine stated that if they are going to proceed with the Study then the next step would be to select the rate structure. Staff would recommend going forward with the impervious approach.

Mr. Jim O'Connor, City Manager, stated that this presentation was presented to both the Utilities and Finance Commission and both recommended moving forward with the Stormwater Utility Study. He then asked Ms. Fontaine to introduce her Team that was in attendance at today's meeting.

Mr. Winger commented that he has been on the City Council for four (4) years and was a member of the Finance Commission before that. He mentioned the recession in 2008, which the City had some major cut backs and some things have not been dealt with. He said this is not necessarily a tax increase. What this does is sets aside money that the City Council can use to fix deferred maintenance. The cost will be \$60.00 for the homeowner, but there could be a reduction if necessary. The money generated from doing this will help with the "crumbling" infrastructure. The other thing it does is makes available \$500,000 to meet the BMA fees that they expect and we know are coming and an investment with seagrass and the lagoon. He made it clear that there would not be any additional staff hired to handle this. He mentioned a wonderful book entitled "The Swamp" which deals with the drainage history of Florida. The history of Florida shows that there has been flooding and mosquitoes. He said the City must look at this and say how do they deal with the future. He said all problems are caused by people, and more people are coming to this community and people put pressure on the infrastructure and the lagoon.

Mayor Kramer asked Mr. O'Connor if staff was looking for direction from Council in proceeding with the rate structure and methodology.

Mr. O'Connor explained the first thing they need to do is decide whether or not to move forward with the remainder of the Study, which will cost around \$50,000. Then from there determine the methodology and the pervious/impervious process in doing the calculations.

Mrs. Turner asked if the Utilities/Finance Commissions made any recommendations on the rate structure. Mr. O'Connor answered no. He said the only recommendation that they made was to move forward with the Study.

Mrs. Turner had some questions in reviewing this preliminary report. She said it mentioned identifying a sustainable funding source. She said right now they do have a sustainable funding source for their stormwater, which they have funded a half of a million dollars a year on these projects, and it comes from their one cent sales tax. She said in looking at this it would be an additional cost because as she goes through this stormwater utility they won't replace this revenue source. It will be in addition to the one cent sales tax, as well as the \$700,000/\$800,000 that is coming out of their General Fund.

Mr. O'Connor told Mrs. Turner she was correct. The one cent sales tax is only used for capital projects.

Mr. Winger explained that it is only additional if the City Council maintains the current rate of 2.38. He said if that is reduced then it is not additional.

Mr. O'Connor asked Mr. Winger if he was talking about the ad valorem tax and not the one cent sales tax. Mr. Winger said he was talking about the ad valorem tax. Mr. O'Connor explained that Mrs. Turner is talking about the one cent sales tax.

Mrs. Turner referred to the document where it states the goals and objectives implies that stormwater utility is the secret to receiving grants and yet they currently have several pending grants that they have received. She said there has been a grant received for Humiston Park and they have a pending grant for Aviation Boulevard where they will be replacing culverts. She said just the existence of having a stormwater utility does not mean they are going to get more money.

Mr. Falls reported that having a stormwater utility is a plus when grant deliberations are being done.

Mr. Winger brought up the pending grant for McAnsh Park. He asked how that will be funded.

Mr. Falls explained those grants are currently in-hand and as it stands now they would have to do a budget amendment to be able to use those grants because they are matching grants.

Mr. Howle asked Mr. Falls to bring up the slide that shows other cities that have stormwater utilities.

Mr. Old said there are only a few cities listed. He said there were close to 180 cities in the State of Florida that have stormwater utilities.

Mr. Howle asked when did the City of Clearwater implement their stormwater utility and what was their rate when they first implemented it.

Mr. Falls did not have that information. He said the \$5.00 that they came up with for their rate was based on the capital program that they had put forth in their plan and based on the funding needs.

Mr. Old added that the rate that will be charged is up to the City Council.

Mrs. Turner stated that they are creating another utility that will have to have a rate show up on the customer's utility bill and then they also are creating an appeals process for people to appeal their stormwater rates. She said this is just more growing of

government. She said there is no question they need to address stormwater and feels they have done it in their overall capital budget planning and that is where it should remain. Mr. Howle agreed that this sets another branch of government, which he has said on record he is not in favor of. He said if the citizens of Vero Beach want to create a new branch of government then they need to have a referendum and vote on it. He reiterated that he was not in favor of creating more government.

Mayor Kramer understood that they were not adding any more employees. He found it interesting that no one appeared at their Council meetings when Sebastian or Fellsmere had a new branch of government. He said for some reason everyone seemed to be absent at those meetings. This is an issue where the legislature is putting on them an unfunded mandate. There are some problems with their seagrass and the legislature wants them to fix it and they will take credit for it. That means the City either has to raise taxes or create a Utility Authority to deal with the issue. He said they are faced with either raising taxes or going through this utility method, which he is in favor of going through the utility method. He wants to have people contribute to getting rid of stormwater issues on their own property and getting credit for it. If they don't want to pay for it then they have the opportunity to mitigate it.

Mr. Old added that this also takes out of the budget argument process the health of the lagoon. This will take care of the lagoon and the issues surrounding the lagoon and they can move forward.

Mrs. Turner commented that the City of Vero Beach is far ahead of their neighboring cities in the measures that they have taken and the reduction of nitrogen and phosphorous that has come off the watershed in this City. She said to give the impression that if they move forward with this tax they are going to save the lagoon is just not true. The City of Vero Beach is less than one percent of the watershed of the whole lagoon. This was not to say that they shouldn't be taking some precautions. They could do all this and it still might not make a difference.

Mr. Winger stated that he differs with the comments made by Mr. Howle. He said this is a much fairer way at this time. Some of the large commercial business owners are not paying for it at this time so this shifts the burden. He met with Senator Nelson over a year ago and he said when you're dealing with a wide spread body like the lagoon it cannot be fixed by any one entity. Their conversation centered on all the layers of government that exists and it only works if each government is responsible.

Mr. Old made a motion to move the Study forward.

Mrs. Laura Moss, Utility Commission Member at Large, clarified at the Joint Finance/Utilities Commission meeting they recommended going forward only with continuing with the Study. She said there was a huge amount of caution expressed in regards to giving a recommendation on the methodology and the Study. She said the Commissions understood that \$51,000 had already been spent and they were told that another \$50,000 would complete the Study. She reiterated that was the only thing that

the Commissions' recommended. It also came up that this Council had stated a number of times that this matter will go to a public referendum first for the creation of a stormwater water utility before it occurs. She asked if that was correct.

Mayor Kramer stated that it will come up once the Study has been completed and it will be decided.

Mrs. Moss stated that it was her understanding in the past that Council discussed the matter of a public referendum and since the public will be paying the bill for this she feels that the public should make the final choice. She asked if that was no longer the position of the City Council.

Mr. Winger commented that both the Utilities and the Finance Commission said that the next step would be to continue this and it will go back to the Commissions. He said with whatever motion is made, this Council is agreeing with the Commissions to move forward and then the work that is done (completed Study) will be taken back to the Commissions. Also, at that joint meeting the City Manager made it clear that in effect whether or not there was a referendum there have been almost no stormwater utilities in the State of Florida that have been established by referendum. He was not saying he was against having a referendum, but it is something that has to be decided.

Mrs. Moss asked the Council to please tell her where that notion came from.

Mrs. Turner told Mrs. Moss that there certainly was discussion on the Council and said that some of the Councilmembers are changing their position.

Mr. Winger noted that Council has also changed.

Mayor Kramer added that this is a decision that will be made in the future. He said the discussion they have today does not lock them into the decision they make tomorrow.

Mrs. Moss reiterated that the Finance and Utility Commission recommended only proceeding with the Study and nothing further.

Mr. Ken Daige urged Council to think about this tax and where they are going to place it. He said there are a lot of people who have a hard time making ends meet and it might be hard if this additional expense shows up on their utility bill. He said a \$5.00 increase is huge to a lot to people that are on a fixed income. He said any increase for some people is a burden. He asked if the fee will go up every year or every couple of years and will it be ongoing and stay forever. It may depend on the wording on the ballot on how many years it will occur. He said there are some properties in the area where water drains from the road onto their property. He wondered how they will get assessed. He did not see any harm in moving forward with the Study and getting more information. He asked that Council really think about the situation of having this tax put on people's utility bills.

Mr. Brian Heady stated that he appreciated what citizens have to say. He said there were three (3) Councilmembers who did not appreciate Mrs. Moss's point of view. He mentioned that Mr. Winger has gone through great lengths to say this is not a tax increase, but it is caused by the people because more people are coming to Vero Beach. He said of course it is a tax increase and another level of government. He said if you look at the population you will see that the population in Vero Beach has declined. He complimented staff on a good presentation. He said that not all the problems are caused by people. He said it is the government who is causing the problems. Government has kept doing things without providing for runoff. He brought up the Humiston Park project where 90% of the runoff was eliminated by going into the ocean and there have not been any problems. He agreed they were creating more government by doing this. He heard Mayor Kramer say that legislation is forcing them to do this and it is Tallahassee's problem. He felt the last thing they want to do is create a bigger government. He brought up what Mrs. Moss had mentioned about having a referendum and did not think that she was the only one who heard that discussed by Council at an earlier date. He said there are other people in the community who heard the same thing. He said some Councilmembers say whatever seems to be the most popular thing to say on a particular day. He said if they are going to create more government then the public should have a say in it. He doesn't care that there are other communities who have not held a referendum on having a stormwater utility. He reiterated that this is creating a bigger government and it is another tax that they don't need. He stated that government is the biggest polluter of the lagoon.

Mr. Old stated that he for one has changed his mind. He is going back and forth about having a referendum. He was struggling on the best way to get the stormwater utility in place.

Mr. Dan Lamson, Executive Director for the Indian River Neighborhood Association (IRNA), said that IRNA has been interested in exploring this from the beginning. He said they would like Council to continue with the Study. He said so far the Study has been well done.

Mr. Peter Gorry, Chairman of the Finance Commission, endorsed what Mrs. Moss said earlier. He said at the Joint Finance/Utility Commission meeting they did address this issue and agreed that the Study should be completed and presented to the public so they would be better informed and a referendum was talked about. He said this is a funding mechanism only and no additional administration would be hired.

Mr. O'Connor said that was correct. There will be no additional staff hired in conjunction with this project.

Mr. Gorry recalled that what occurred in the budget this year was that all the money allocated for stormwater was taken out of the budget and there is zero money in the budget for stormwater projects. He said they will need to eliminate other projects if they are going to do stormwater projects. He agreed with going forward with the Study.

Mr. Old made a motion to proceed forward with this Study and to limit the next step to \$50,000. Mr. Winger seconded the motion.

Mr. Falls explained that if they choose to move forward with the Study there are two (2) rate structures that the consultant has chosen to look at in the Study. The first one is the impervious rate structure that looks at the hard surface on the property and the most commonly used in Florida. If they use the pervious and impervious they would benefit if there was more undeveloped property. For the consultant to move forward and complete the report they need to know which rate structure to use.

Mrs. Turner asked Mr. Falls if they opted to go with the impervious structure would the consultant continue to develop options 1A/1B, or would they just do one. Mr. Falls explained that 1A/1B would be developed because there would only be three or four hundred properties that would fall in that upper tier and that decision could be made at a later date.

Mayor Kramer called for the vote to continue with the Study. The motion passed 3-2 with Mrs. Turner and Mr. Howle voting no.

Mrs. Turner stated that if they are going to go forward she would make a motion that it be for the impervious rate structure, which is 1A/1B. Mr. Winger seconded the motion.

Mayor Kramer asked if there was any competition for funding for these various projects.

Mr. O'Connor explained there would not be under stormwater utility, but there is competition for funding of projects that are listed in the General Fund. He said with the one cent sales tax the competition is any capital projects.

Mayor Kramer said then really it is just a tax on property value versus a tax based on their contribution to stormwater. Mr. O'Connor explained the way he is looking at it is the stormwater utility basis it on the amount of discharge that is put into the system. The ad valorem tax is a general tax not targeted to any particular item.

Mr. Ken Daige commented that in the event this goes forward he wondered if once the infrastructure projects have been completed will this fee be eliminated or will it be reduced. He was not looking for these answers today.

Mayor Kramer hoped that the charge would be able to be eliminated.

Mr. Winger commented that when this was originally presented, he made a point of saying that if it is no longer needed that it could be sunsetted looking five or seven years down the road.

The motion passed unanimously.

At this time, Council took a break and the meeting reconvened at 11:40 a.m.

**D. Presentation items by the public.**

**1. Peter Gorry, Chairman of the Finance Commission, to discuss their Annual Report.**

Mr. Peter Gorry, Chairman of the Finance Commission, went over the Commission's Annual Report (attached to the original minutes).

Mrs. Turner thanked Mr. Gorry and the Finance Commission for the incredible amount of hours that they have donated to the City.

**2. Dr. James Adovasio and Dr. Megan Davis to speak on the excavation for the Old Vero Man Site.**

\*Please note this item was heard earlier in the meeting.

Dr. Megan Davis, Florida Atlantic University (FAU), talked about FAU and said that they have been working on the Old Vero Man Site project for the last three (3) years. This year they have a greater partnership with this project and are now the University managing it. She said that she is so touched with the community help they received on this project.

Dr. James Adovasio, FAU, commented that 100 years ago this month Vero Beach was the center of the archeological universe. It was apparent that human beings lived in Florida ten thousand years longer than anyone could imagine. He questioned why they should care about events that occurred that long ago. He explained because as a society if they do not recommend that there was a past then there would not be one. They are attempting to show what the first Floridians on this landscape were doing. He talked about climate change and what has occurred in Florida. He said that 40% of Florida is now under water of what was exposed many years ago. In Vero Beach there are more animal remains, plant remains, etc., in this location than anywhere else, east of the Mississippi River. This is the largest archeological project of this kind going on east of the Mississippi River. In April there will be many archeologists coming to Vero Beach to take a tour of the site. He encouraged everyone to visit the site and take a tour. He thanked them for the opportunity to come and tell everyone how vast this project is.

Mr. Old introduced Mrs. Susan Grandpierre who was instrumental in saving this site.

**3. CONSENT AGENDA**

- 1. Regular City Council Minutes – February 16, 2016**
- 2. Mr. Phil Reid asking for permission to serve alcohol at the Bark N Brew 2016.**
- 3. Renewal of Contract 1449-C-Utility Bill Printing and Mailing Services**

Mr. Howle made a motion to adopt the consent agenda as presented. Mr. Old seconded the motion and it passed unanimously.

Mrs. Turner asked what the financial status of the Dog Park was and how does it relate to fundraising.

Mr. O'Connor explained that the funding is needed in order to provide the required parking at the Dog Park. He said the parking situation will be coming to the City Council at a future date.

#### **4. PUBLIC HEARINGS**

##### **A) A Resolution of the City Council of the City of Vero Beach, Florida, adopting Permit Application Fees for Solicitors and Vehicle for Hire Drivers; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Resolution by title only.

Mr. O'Connor reported that the City Police Department is no longer able to use the Florida Crime Information Center (FCIC) or National Crime Information Center (NCIC) to conduct criminal background checks on applicants for a solicitor permit or a vehicle for hire permit. The most practical solution is for the City to use an outside private screening service to perform the background checks. The plan is to use the same private screening service used by the City's Human Resources Department. However, private screening will not be free and any such costs are not covered by current permit application fees. The fee for conducting criminal background checks by the firm used by the Human Resources Department is \$58.00. To recoup the costs for the criminal background screening of permit applicants, the Planning and Development Department proposes for the solicitor permit application a fee of \$25.00 per individual application or group of individual applications from a single firm plus \$58.00 per individual application. He recommends approval of the Resolution.

Mayor Kramer opened and closed the public hearing at 11:56 a.m., with no one wishing to be heard.

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

#### **5. RESOLUTIONS**

##### **A) A Resolution of the City Council of the City of Vero Beach, Florida, Expressing Support for the Construction of the Groveland Reservoir and Treatment Area and Requesting the Saint John's River Water Management District to Protect and Preserve the Florida Aquifer Public Water Supply by**

**Restricting Withdrawals from the Florida Aquifer for Electric Utility Use;  
Providing for Conflict and Severability; and Providing for an Effective Date.  
– Requested by the Water and Sewer Director**

This item was pulled off of the agenda.

**6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING**

**Public Hearing to be held on March 15, 2016**

- A) **An Ordinance of the City of Vero Beach, Florida, amending the Vero Beach Firefighter’s Relief and Pension Fund; Creating a New Section 58.81 of the City Code Providing for the creating of a Defined Contribution Share Plan funded by available Insurance Premium Tax Revenue under FLA.STAT. Section 175.351; Providing for Codification; Providing for Severability; Providing for an Effective Date. – Requested by the Fire Pension Board**

The City Clerk read the Ordinance by title only and stated that the public hearing will be held on March 15, 2016.

**7. CITY CLERK’S MATTERS**

Mrs. Turner asked Mrs. Vock in the future to provide an update on the openings that they have on their Commission and Boards.

**8. CITY MANAGER’S MATTERS**

- A) **RFP 370-15/JO – Sale of Old Diesel Plant**

Mr. O’Connor reported that an Evaluation Committee consisting of himself, Mr. Falls, Mr. McGarry, and Mr. Fletcher reviewed the three (3) bids that were received from the Request for Proposal (RFP) that was put out on December 18, 2015 for the old Diesel Plant. On February 15, 2016, each company was allowed an hour to give a presentation, followed by a question and answer session by the Evaluation Committee. Following the interviews the Evaluation Committee discussed the various proposals and ranked each proposal based on the criteria established in the RFP. The Evaluation Committee unanimously selected Integra as their number one choice, with Treasure Coast Distillery being their second choice and Ross Powers being their third choice. Integra has provided two options in purchasing the building. Option #1 would be to purchase the building for \$650,000 and the City would be responsible for any environmental cleanup costs. Option #2 would be to purchase the property for \$500,000 and the buyer would be responsible for any environmental cleanup costs that may occur. Mr. O’Connor explained if in negotiations they could not finalize the contract with Integra then they would go with the second choice chosen in the bidding process.

Mr. Howle asked Mr. O'Connor to go into more detail. He said that the proposal is either to buy the property outright or buy the property and have the City responsible for the mitigation.

Mr. O'Connor commented that the City is not a good landlord and the old Diesel Plant has been a major challenge. He said leasing was not an option moving forward. He said they are looking at the outright sale of the property, as is. He said because of the litigation that is still on-going with this piece of property there may be some type of deed restriction imposed for a minimum period of time until the litigation has been closed.

Mr. Winger asked if the money received from this sale would go into the electrical utility. Mr. O'Connor said yes.

Mrs. Susan Grandpierre stated that the sale of this Diesel Plant is a community asset and the RFP stated the sale would be to someone who meets the best fit for the community. She was surprised when staff chose to sell the Diesel Plant to someone who is proposing to put a brewery there. She is in disagreement with staff's point of view. She felt that the proposal submitted by Ross Power fits better. She commented on the environmental problems. She said that plume runs under the building and can't be dug out. She said the results are not back yet on how to best mitigate the environmental issues. She commented that this Plant served this community for many years so shouldn't they also bear the cost of the cleanup. She questioned if this was the right time to sell this property. She went over her credentials and the things that she has done in this community. She recalled that the Cultural Arts Council looked at the idea of purchasing the Diesel Plant and making it a Cultural Arts Center. The idea was endorsed at public meetings and they gathered 1,500 signatures in favor of doing this. Since then the Cultural Arts Council moved on to developing the Cultural Arts Village. She said that Mr. Power has been a part of this process and she was so happy to see that he submitted a proposal to purchase this property. She said it is very similar to the Cultural Arts Council's proposal, except it includes a studio. She said that staff had a hard time assessing Mr. Power's plan. She said you don't have to be dead for finding a market for art. She went over some of the things that Mr. Power has accomplished. She said everything proposed for the Diesel Plant he has done before. This will make a big statement for art. She said lets bring a new type of business to Vero Beach. He has recruited Ms. Kitty Wagner to create a trendy restaurant with seating for 150 people and she will operate the restaurant. He would preserve the historical character of the building. This will be good for the community and it would be successful. She said this is a very sophisticated town and she doesn't feel that the other proposal would do anything like Mr. Power's proposal would for the downtown area. She understood that Mr. Michael Rechter (Integra) owns property on 14<sup>th</sup> Avenue and at one time he planned to put his brewery there and he would be welcome there. There is only one Diesel Plant and it is a beautiful building and the community loves it. She said by going with Mr. Power's proposal it would be a way to continue boosting the art district in the downtown area.

Mr. Ross Power, President of Power Productions, stated that when the Evaluation Committee selected Integra he thought that it was great for Mr. Rechter, but bad for the City of Vero Beach. He thinks this is a mistake. In the proposal his firm was listed as Ross Power Inc. He did not know where the *Inc.* came from. He went back to the proposal made by Mr. Rechter and said that the Diesel Plant would be created into a Sports Bar. This belongs in Orlando and not as the corner stone of the new Arts Village. They look at the Diesel Plant as a special needs child. She (Diesel Plant) has given them so much over the years and we should not abandon her now. He was willing to work with the City in making this happen. If they want him to expand the parking then he will. He just does not want to see that building misused.

Mr. Michael Rechter, Integra, stated that culinary arts, brewing art, and music are all a part of art. He understands the integrity of the building. He plans to keep the diesel engine where it is. He knows the work that has been done to this building and has invested in property on 14<sup>th</sup> Avenue because of that. He explained that the brewery he is proposing is not like the one located on the beach. He said that this particular building is special and he is an advocate of art. He felt what the Cultural Arts Council would like to see and the proposal made by Mr. Power is not going to work. He does not have to worry about getting financing to purchase the building. He will be paying cash. He briefly discussed the environmental issues and said that he is aware of them. He hired a firm to look at the environmental issues and feels comfortable with the proposal that he has submitted to the City. He said this proposal will give the City the ability to sell the property "as is." He feels his proposal for a brewery will bring a lot of people to the downtown area. He has the capital and the right staff to do this project and feels it is the right thing for the City. It will help change the downtown area for generations to come.

Mr. Winger referred to the building that Mr. Rechter owns on 14<sup>th</sup> Avenue and was hoping that Mr. Rechter was planning to improve the outside of the building on 14<sup>th</sup> Avenue.

Mr. Rechter explained that he was waiting to see what happens with the Diesel Plant. He said there are other interested parties who want to rent this building from him. He assured Mr. Winger that it would look better within the next 90 days.

Mrs. Phyllis Frey stated that she cares about the old downtown area. She supports the arts and invests in the arts. She felt that either gentleman's project was worthy. She suggested asking that a business plan be put together for both and see what monetarily would be better for this community.

Mr. Al Bankert, Board of Directors of the Oceanside Business Association and a Real Estate Broker, told Council that they have a couple of good proposals in front of them. He felt that Mr. Power's proposal was very much what Vero Beach is all about. The history of this City is not on how much money you can make, it is about the quality of life. He said that an Arts Center fits very much into what Vero is. Staff reviewed these proposals from a financial point of view. The Council's job is to keep the spirit of Vero Beach. Their (City Council's) decision is a little different than staff's decision. They

would be remiss in not giving Mr. Power the opportunity to put more meat in his proposal and get it moving.

Mr. Ken Daige commented that he found the presentation from both vendors interesting. It is Council's decision to do what is best for this community. The decision they make today will affect a lot of the people in this community in the future. As far as art galleries go, downtown was having a tough time before these artists brought their businesses to the downtown area. He said people do come and spend their money downtown and the galleries have not "folded" up. He mentioned there are some nice little restaurants downtown that are owned by some younger people. He said that he does not know either bidder very well. He does know that Mr. Powers has been a part of the community for 10 years and he is vested in this community. Mr. Rechter is a successful developer and maybe what he is proposing might be too big for downtown. He asked Council to please make the best decision for the community. He realizes that financing is very important and they need to do what is a good fit for the community. All of them are familiar on what goes on in their downtown area and what would be a good fit. They need to make sure what goes in the Diesel Plant is not going to burden the neighborhood. They also do not want to bring any negative effects to the small business owners. They just want to do what is good for the people in this community.

Mr. Howle commented that he appreciates art work, but doesn't go to the downtown area for the art galleries. When he is downtown he visits the restaurants, but realizes there are businesses downtown other than just restaurants.

Mayor Kramer understood that the Treasure Coast Distillery and Ross Power were combining their bids. He said they started this RFP process and now they have to continue with it. He does not have a problem delaying this matter until their next meeting if Mr. Power can get something back to them.

Mr. Wayne Coment, City Attorney, explained that if Council chooses not to go with one of the proposals that they have received then they will need to terminate the RFP's and start the whole process again (reopen it for bids).

Mr. Howle was not willing to do that. He felt it was prudent that they move forward.

Mrs. Grandpierre mentioned that since these RFP's were done there have been some environmental changes that have come up.

Mr. O'Connor said that was true. He said the environmental issue is ever changing. He said they received a notice from the State saying there was no further action required. Then their tenants went out and did a Phase II and the City and their Consultant acknowledged this, which in fact changed the factors. He said the environmental issue today will change two years from now, hopefully for the better. He said that is the risk for whoever the property owner is unless it is put in the contract that the City wants to assume that responsibility. He said there is not a clean piece of property anywhere that you could certify will not have environmental issues.

Mrs. Grandpierre said what was understood about the property substantially changed after the bids were submitted.

Mrs. Turner pointed out that all the bidders were in the same position. It changed for all of the bidders.

Mr. Powers expressed that his feelings are that he is passionate about his hometown. He is concerned about a Sports Bar being built where the old Diesel Plant sits and that is why he came forward. He suggested giving the proposal to Treasure Coast Distillery and he will work with them on his project. He said that Treasure Coast Distillery was also a cash buyer.

Mr. Winger explained that an RFP is an RFP. He liked Mr. Rechter's proposal allowing \$150,000 for the environmental cleanup. He said that he would like to have this matter behind them.

Mr. Old agreed that he would like to have this over and behind them. He felt what was going on in the art district was very good.

Mayor Kramer was thinking about the RFP process. He said the RFP process is completed when they (the Selection Committee) made their decision.

Mr. O'Connor explained that the City Council completes the RFP process. He said proposals are reviewed by the Selection Committee and narrowed down. In this case the Selection Committee reviewed all three (3) proposals and interviewed all of the three (3) different parties that had an interest in the property. The questions they chose to ask were given out ahead of time and the same questions were given to each of the three (3) parties. He said one of their questions came from more of a business standpoint. The bidder was asked to make their proposal to the Selection Committee just as they would make it to their banker.

Mayor Kramer wanted to see the process of elimination. He thought they could eliminate one of the bids and then have a final presentation.

Mr. Coment explained that when they put out an RFP the guidelines have to be followed. He said if you start deviating from that any one of the bidders could challenge it and we could end up in a lawsuit. He said if they are changing the process in any way their best bet would be to terminate it and have another RFP issued.

Mrs. Grandpierre read page 4 of the RFP, which discussed rejecting and re-advertising for other proposals.

Mr. Howle made a motion to accept Integra Corps. Mrs. Turner seconded the motion.

Mr. O'Connor went over some of the things that will be included in the negotiation process. He said Council will approve the final document. He plans to put some type of deed restriction in the final document that the business will be there five (5) to seven (7) years out. Another thing is they cannot disturb the soil except for by approved site plans that come through the City.

Mr. Rechter commented that he was a little disappointed because this seems personal. He said that he looked at all three (3) proposals and what Treasure Coast Distillery puts forth was more credible and better than Mr. Power's proposal. Now, Mr. Powers wants to team up with a Distillery, which he doesn't get. He said all of sudden this Cultural Arts building (Diesel Plant) is now a Distillery.

Mayor Kramer told Mr. Rechter that this is not personal. He said that he favors Mr. Rechter's proposal over the other two (2) proposals.

Mr. Rechter had no problems with the deed restrictions mentioned earlier by Mr. O'Connor. He said he presented a business plan with real numbers just as he was asked to by the City.

Mr. Howle called the question.

The motion passed 5-0 allowing staff to enter into negotiations with Integra Corps.

**B) Bid #010-16/PJW – Fuel Removal & Tank Cleaning**

Mr. O'Connor reported that staff put out a proposal for fuel removal and tank cleaning at the Power Plant. The City received four (4) bids back, which each Councilmember received a copy of. Staff is recommending going with Diversified Professional. He said they will charge \$24,999.00 to empty the tank, but at the same time they will sell the fuel that comes out of the tank. The City estimates that will have a positive number of about \$14,000.

Mrs. Turner commented that having dealt with a lot of bid tabulations; she sees these huge swings and questioned this company (Diversified Professional). She asked if they knew of this company.

Mr. O'Connor stated that a background check was done on this company and everything checked out. He said the company will have to find a market for the oil that they take out. He said they have built in extra time in order to do that. He said yesterday the company was saying that they needed at least a week before they signed the contract in order to solidify those contracts for the sale of the oil.

Mrs. Turner asked if the 150 days to complete the work instead of 60 days will cause any problems.

Mr. O'Connor said that was not a problem.

Mr. Jeff Michael commented that the 150 days does put them into the hurricane season. He said with the tank sitting right next to the water this could be a huge liability. He noted that this bid is \$1.00 below their bonding capacity and there is sludge in the bottom of the tank. He did not know if bonding was possible.

Mrs. Turner commented that she did notice that this \$1.00 was below the bonding capacity and this is a bit disconcerting when you see \$24,999.00 just to be able to get under the \$25,000.00 bonding.

Mr. O'Connor explained that one of the issues was because the money was so different, which was the reason for going in this direction. The company will be required to have the adequate insurance required.

Mayor Kramer asked what happens if the company cannot perform the work in 150 days.

Mr. O'Connor explained that they would need to go out with another RFP or they could possibly go with the second bidder if they would hold their price.

Mayor Kramer was tempted to go with the second lowest bidder because there are a few warning signs with the first bidder.

Mr. Old asked if there was any hesitation when staff was reviewing the bids to see who they should go with.

Mr. O'Connor stated when he looked at the numbers there was no question there was hesitancy. However, after doing the background check and being shown this company was capable of doing the work the real issue was it is a function of time and time does not have that much value to them in this particular situation. He will make sure that Diversified Professional realizes the conversation that has taken place today so that they can meet the qualifications included in the contract.

Mr. Winger made a motion to award the contract to Diversified Professional. Mr. Howle seconded the motion and it passed unanimously.

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

Mr. Coment reported on the lawsuit that the City has regarding the old Diesel Plant. He said that a new Judge has been assigned and a trial date will be scheduled.

## **10. PUBLIC COMMENT**

Mrs. Phyllis Frey read a prepared statement. She said sometimes having more grants can lead to getting "deeper in the hole." She extended an invitation to a free movie at the Majestic Theater this evening at 6:30 p.m. She also passed out a flyer inviting everyone

to attend the "Move 'em West Rally" scheduled for March 19<sup>th</sup> at 11:00 a.m. to be held near the 19<sup>th</sup> and 20<sup>th</sup> Street railroad crossings.

Mr. O'Connor reported that this morning he received a telephone call from Attorney Schef Wright who said the Public Service Commission (PSC) voted this morning to unanimously take staff's recommendation regarding the Indian River Shores litigation matter.

Mr. Ken Daige brought up grants and said that in the past the City has utilized grant money. However, he said HUD grants are a different type of grant and he does not think that the City has ever used that type of grant. He recalled a block grant that was used for a particular neighborhood where sidewalk replacements, drainage, and overall cleanup was needed and the people living there could not afford to pay for it. As a result, more people invested in these neighborhoods and the upgrades to the one Park in the neighborhood are being utilized by children playing on the playground equipment. He did not think that any Councilmember has asked to apply for a HUD grant. He wanted to explain the positive side of requesting grant money.

## **11. CITY COUNCIL MATTERS**

### **A. Old Business**

#### **1. Update on proposed Skate Park at Leisure Square.**

Mr. Jeff Mathews asked for the City Council's blessing in moving forward with the skate park project. He said that Council tasked them at the last meeting when this matter was heard to notify the surrounding neighbors about the skate park. They went door to door to their closest neighbors on the east and west side of Leisure Square. They also held an Open House to explain the skate park to anyone who wished to attend. There were a couple naysayers who attended the Open House, but at the end of the night the two out of the three people who attended were in favor of the skate park. They presented to Council a business plan for constructing a 19,000 square foot skate park and a 10,000 square foot skate park (on file in the Clerk's office). He said one thing they continuously see is that there is very little repair costs to concrete skate parks. He would be happy to answer any questions that Council might have.

Mr. O'Connor wanted Council to be clear that they were not adopting a business plan. The business plan was presented only to show the parameters of how to operate a skate park. What they are asking for today is to be able to do fundraising in order to pay for the construction to build a skate park.

Mr. Winger made a motion that Council approves the Vero Beach Skate Board Alliance (VBSBA) to proceed with fundraising efforts for a skate park at Leisure Square. Mr. Old seconded the motion.

Mr. Howle commented that he has grveled with this skate park proposal for some time now. He recognizes that the City is having a problem keeping up with the Parks that they currently have and he has heard the Chairman of the Finance Commission say that the City is currently spending a million dollars a year on recreation.

Mrs. Turner thanked the VBSBA for all their great work. She has received the expenses for the Recreation Department and it shows that Leisure Square is in the "hole." She would hope that the financials for the skate park would show this would be turned around at Leisure Square, but it is not clear if the skate park will even pay for itself. She looked at the locations of different skate parks and none are located in a residential area like Leisure Square. There is an elderly community that surrounds Leisure Square. When the Open House was held it was at night and only three (3) people showed up. Having the skate park would require additional supervision at Leisure Square and an extension of the hours that it will need to stay open. There is some concern that having a skate park at Leisure Square could add an additional burden on this deteriorating facility.

Mr. O'Connor noted that Leisure Square is one of the few facilities in the City where 50% or greater of the people that utilize the facility are City residents.

Mrs. Turner commented that it is a challenge for the City as they continue to see the County grow and their facilities are burdened with even more people using them that are not City residents. She would support them going and talking to the County about building a skate park in the County. She agrees that there is a need for a skate park in the community, but this is not the right spot.

Mr. Winger expressed that VBSBA have gone through the steps that they asked them to take. He said once this skate park is built there will be happy kids and it is being done for the greater good of this community.

Mayor Kramer said that he agreed with Mr. Winger's comments and said that the Recreation staff does well and they are not in trouble.

Mr. Old added that this will hit a targeted audience that has not been hit before.

Mr. Winger called the question.

The motion passed 3-2 with Mrs. Turner and Mr. Howle voting no.

**B. New Business**

**12. INDIVIDUAL COUNCILMEMBERS' MATTERS**

**A. Mayor Jay Kramer's Matters**

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

Mayor Kramer commended the Marty Fish Foundation and what they do for this community. He attended the annual Castle event and carried one of the flags that stand for how many children have died this year from abuse. He also attended the Faith Justice Symposium, which was a real eye opening experience.

**B. Vice Mayor Randy Old's Matters**

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

No report given.

**C. Councilmember Pilar Turner's Matters**

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

Mrs. Turner commented on State Representative Mayfield's Bill fighting Florida Municipal Power Agency (FMPA) requiring more transparency and looking to have Elected Officials represent the Board on the FMPA. The Bill failed in the different Committees. However Senator Simpson said the issue with FMPA is not over, it will be back. There was another Press Release done where FMPA was claiming that they gave exit costs to the five (5) cities for their FMPA projects. She said their statement was not correct. That was only for the All Requirement Power Projects. The City of Vero Beach is a member of the All Requirements, as well as Stanton, Stanton II, and the St. Lucie projects. Those other three (3) FMPA contracts have no clear, quantitative exit provisions.

Mrs. Turner recalled when talking about the three (3) corners project that she requested that staff prepare an estimate on what it would cost to clear these properties. She is still hoping they can finish up with that analysis.

Mr. O'Connor recalled that the number to dismantle the Power Plant is around \$9 million dollars. However, if they took the Power Plant down and just kept the substation in place where it is now then it would be a different price.

Mrs. Turner continued by saying to remove the Water and Sewer Plant the latest estimate is \$36.3 million over a six (6) year period. She asked staff to address how this could be paid for with their existing rate structure because their water and sewer rates are tied to the County rates and they cannot charge anything higher than those rates.

Mr. O'Connor said that only applies to Indian River Shores. He said customers inside the City still get the City rates, but their customers in the unincorporated areas and in Indian River Shores receive the County rates.

Mrs. Turner reported that staff found six (6) other firms that could be possible alternatives to the Treasure Coast Regional Planning Council, as far as looking at firms to do the three corners project study (memo on file in the Clerk's office).

Mrs. Turner congratulated Vero Beach High School Girl's Basketball Team who just won State Championship. She said on Sunday, March 6<sup>th</sup> there will be the ECO Fest at the Environmental Learning Center from 11:00 a.m. – 4:00 p.m.

**D. Councilmember Richard Winger's Matters**

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

Mr. Winger reported that turtle nesting starts on March 1<sup>st</sup>. He will be attending the annual St. Patty's Day Parade on Cardinal Drive and plans to attend three different ballparks to see five (5) different ballgames.

**E. Councilmember Harry Howle's Matters**

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

Mr. Howle reported that he attended the Tourism Development Council meeting where it was noted that tourism this year was up by 16.1%. He said this is the sixth year in a row that tourism continues to increase. He said that last night he attended the benefit for the Pittsburgh Sympathy Orchestra.

**13. ADJOURNMENT**

Today's meeting adjourned at 1:40 p.m.

/tv