

**CITY OF VERO BEACH, FLORIDA
MARCH 2, 2010 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

The invocation was given by Pastor Derrick West of First Baptist Church of Vero.

C. Pledge of Allegiance

The audience and the Council joined in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. Heady requested that under his matters two items be added. The first one is item I) Discussion of towing companies within the City limits and item J) Red Light Cameras. He also asked that item A) David Gregg, John Little request, under his items be moved up and heard after Mr. Gregg speaks under Public Comments.

Mayor Sawnick asked Council if they had any problems with having Mr. Gregg discuss his item after everyone has had a chance to speak under Public Comments. Council had no problems with this request.

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

B. Proclamations

- 1. Indian River College Month – March 2010**
- 2. Helen Glenn & Alma Lee Loy Day – March 13, 2010**

Mayor Sawnick read and presented all of the proclamations.

C. Public Comment

1. Mr. David Gregg to discuss the letter that he received from Councilmember Ken Daige dated February 11, 2010

Mr. David Gregg explained the reason that he was here today was very simple. He said that about a month ago he asked the three Councilmembers who approved the OUC contract if they knew that the City would have to pay Florida Power and Light (FP&L) some \$3.4 million dollars a year for use of the FP&L power lines. He said that Mr. White answered his question at the meeting, Mr. Abell called him after the meeting to answer the question and Mr. Daige said at the meeting when he asked the question that he was here to listen to the public, and that Mr. Gregg was a member of the public. He then again asked Mr. Daige if he knew at the time that he was voting for the OUC contract that the City was obligated to pay approximately \$3.4 million dollars to FP&L.

Mr. Daige told Mr. Gregg that his response was sent to him in writing. A copy of the letter and response from the City Attorney is attached to the minutes of February 2, 2010. He stands by the response that Mr. Gregg received in writing.

Mayor Sawnick told Mr. Gregg that if he has any further questions that Mr. Daige would probably meet with him at a later time.

Mr. Gregg said that he will not stand by the response given to him by Mr. Daige, because he does not feel that the question has been answered.

Mr. Daige read into the record the letter that he wrote to Mr. Gregg (on file in the City Clerk's office).

Mr. Gregg then asked Mr. Abell if he would answer the question yes or no.

Mr. Abell stated that he told Mr. Gregg that he may not have known the exact amount, but the amount would have been the same no matter what provider was providing power to the City of Vero Beach.

Mr. Glenn Heran presented to Council a rate projection (he showed on the doc cam comparisons for the City of Vero Beach versus FP&L residential rates for 1,000 kWh. He then went over these projections. He briefly discussed an item on Mr. Dagie's matters, which was discussion of the County 6% franchise fee and the City's 10% utility tax. He cautioned Council about trying to get the County to drop the 6% franchise fee because they would end up having to increase taxes to their City ratepayers.

Mr. Heady commented that the problem that he has with the reports presented by Mr. Heran is that he cannot find any discrepancies.

Mayor Sawnick said that he would like to review the numbers to see if he sees anything that may be incorrect.

Ms. Donna Lee Robart, Executive Director of Women's Refuge, explained that her Organization has three buildings located on Lemon Avenue. Their utility bill for the month of December was \$942.00 and for the month of January it was \$944.72. Her staff member lives in a small house next door and her utility bill was \$492.82 for a two bedroom house. She said that they are in dismay over these bills and wanted to issue a complaint and hoped that there would be some sort of investigation or some help with the utility problem.

Mr. White asked Ms. Robart if her utility bill was for electricity only, or did it include water, sewer and garbage. Ms. Robart said that it included everything.

Mr. Heady told Ms. Robart that she has done exactly what she should be doing and that is putting this Council on notice to do something to help her.

Mr. Abell suggested that she talk to Mr. John Lee, Acting Utilities Director, and have him compare her kilowatt usage.

Mr. Charles Wilson agreed with cleaning up the language in the Election Ordinance (referring to item 3-A on the agenda). He said that the City had opportunities to correct the Ordinance before the November election, but did not. He reiterated that the whole thing could have been avoided, but he thanked staff for cleaning it up because he would not want to see what happened before happen again.

Mr. Wilson then gave an update on the petition process. He said that he has filed the proper paperwork to become a PAC Committee (Operation Clean Sweep). The Committee will be meeting this Friday and will begin organizing themselves and will be opening a campaign account. His Attorney (Ms. Brooker) has received a sample of a petition from the State of Florida as to what their petition should look like. She is writing potential language and then will set up a meeting with the City Clerk and the City Attorney to make sure that whatever they do is accurate and correct and cannot be challenged by the City at a later date. He said that they will be circulating the petitions in the month of March.

Mr. Wilson brought up the red light cameras. He said first of all he thinks that was a bad idea and to move forward is another bad idea. It goes right in line with the government clinic (matter discussed last year).

Mr. Wilson discussed the troubling relationship between staff and the sitting City Council. He felt that one of the things that people need to do is try to see things through other people's eyes. He congratulated the City Manager in being an honorable man. He believes that Mr. Gabbard feels that his position and his job is to represent his employees and he has done a good job in doing that. The employees of the City of Vero Beach have good jobs and excellent benefits. The problem now is that staff is making policy, which is the City Council's job. The reason for this is because Councils' in the past have not done their job in representing the people. He said that it is not Council's job to go with

whatever they are being told by the City Manager or the City Attorney. It is their job is to represent the public.

Mr. Wilson briefly talked about the OUC contract. He wanted to know why their City Attorney was on the selection committee to pick the power provider that they chose. He noted that Mr. Vitunac has stated that he is against the sale of the Power Plant. He felt that was not Mr. Vitunac's job. His job is to give Council legal advice. He then brought up the letter that was sent to FP&L and what he thought the letter said.

Mr. Wilson commented that staff made its own policy even after the trial where he was removed from office to see if his homestead exemption was wrong. He noted that staff acts at the direction of the Council and he questioned if that was the direction that Council gave him. He wondered if it was a coincidence that smut packages on Mr. Heady showed up the minute that staff was going to be questioned. He stated that Mr. Gabbard went before the County Commission a couple of meetings ago and what he said is that you are losing the PR war. He said that you are not losing the PR war. The truth is that you are losing the war with truth. Their attorney two weeks ago said that there were not any changes made to the OUC contract, then he said maybe we need to have a revote on the contract, then the next week he said we do not need a revote lets just leave it the way it is. He knows that Mrs. Vock will tell the truth as to whether or not she can certify that the document that Council looked at on April 7, 2008 as being an original document.

Mr. Wilson recalled when they were being told that the City utility rates were going to be lower than FP&L rates. He said that it has been proven that this is wrong. The City Attorney said earlier in today's meeting that FP&L has a surcharge. He said that he has heard no testimony that FP&L has a surcharge. The only time FP&L has been asked this question was by the Press Journal and they answered no. He said that this is not just a City issue, it is a Countywide issue. That is the reason that he is moving forward with the petition. He then went over the wording for the petition.

Mr. Robert Walsh talked about democracy. He said so far talking to the Council is like talking to a wall. They just don't get it. He said there are three tyrants on City Council. He said that citizens in this community are not heard from because the City Council as a whole does not recognize them. He told Council that they were not elected to ignore the citizens, which they do. They are not doing the job that they were elected to do. He was asking this Council to give the citizens what they deserve. He wanted them to include citizen input from now on.

Mr. Jay Kramer commented that he has been watching these meetings for quite some time now and people have a lot of opinions. It seems to him whatever they do, there will always be people complaining regardless. He explained that his business is running data centers. He said that the biggest cost to operate a data center is the power bill. Last year when he was looking at his utility bill in Pennsylvania (where one of the data centers is located) he noticed that they have a menu and can choose what power provider that they want to use. He suggested to Council that they give the whole power decision to the

people of Vero Beach. If this OUC contract works out then the people can switch back to it. He reiterated to give the people the power of choice.

Mr. Heady told Mr. Kramer he was right. He informed him that Council would be going to Tallahassee at the end of March and maybe they could discuss this with their Legislatures. He would put that on an agenda. He felt that it was something that they could push in Tallahassee.

Mr. Kurtis Royce referred to his utility bills for 2009 and 2010. He said that in 2009 he used 805 kilowatt hours and in 2010 he used 1,379 kilowatt hours. He commented that this has been the coldest winter since he has been in Florida. He also didn't know when Council has any time to do any other business with all these electric discussion. He felt that the electric issue has been beaten to death.

Mr. Tom Nason brought up two things. The first thing was that the people who wish to sell the system are mostly from the County. If the system is sold then the City residents will pay. He urged City residents not to sign any petition because they are going to be the ones who will have to pick up the short fall. He requested to speak at the end of today's meeting to give a full disclosure of a case that happened in Sebring concerning their utilities.

Mr. Joseph Guffanti commented that he came to the meeting a little late hoping that he would miss Public Comments so that he wouldn't have a chance to talk. However, he was here and he informed the Council that they have heard from the biggest problem in Vero Beach and that was Tom Nason. He said that Mr. Nason just warned them and now he is going to warn them now to be careful of that guy.

Mrs. Caroline Ginn commented that she had three things troubling her and decided to bring them before Council. The first is the pension liability. She said borrowing money to pay pension is not sustainable. The second thing was that they needed an explanation that neither the City Clerk nor the City Attorney has a copy of the OUC contract. She said that Sue Hersey was not the custodian of the official documents. She wanted to talk a little bit about the sewer rates that she felt were already too high. Also, she did not approve of the lines that were being installed along Indian River Boulevard. This project is costing the City \$10 million dollars and they will have to add it on to debt. She asked them to keep these things under consideration. She lives in the City and wants to stay in the City, but she might have to consider selling her home because of the rise in taxes, etc.

Mr. Heady shared her concerns with the deep injection well and thanked her for bringing those things forward again.

D. Adoption of Consent Agenda

1. Regular City Council Minutes – February 16, 2010

Mr. Heady pulled the minutes off of the consent agenda to make sure that Council had received the updated copy. Council said that they had. Mr. Heady made a motion to approve the February 16, 2010 City Council minutes. Mayor Sawnick seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) **An Ordinance of the City of Vero Beach, Florida, amending Chapter 30 of the Code of the City of Vero Beach regarding Elections; specifying the Eligibility and Qualification Requirements for Election to the Office of City Councilmember; providing the Time and Manner for Qualifying for Election; specifying the Qualifying Fee and Qualifying Papers required; providing for the Form of Ballot; providing Procedures when a Candidate is found Ineligible, Withdraws, is Removed, or Dies before Election; providing Procedures for an Uncontested or Vacant Office after qualifying ends; providing Procedures for Deemed Vacancies in the Office of Councilmember in certain cases; Providing for Election Precincts and Voting by Precinct; Providing for Enforcement and Severability; and Providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mrs. Peggy Lyon, Assistant City Attorney, stated that this proposed Ordinance is before them for a public hearing. She said that there were a couple of changes at the last meeting that Council wanted made to the Ordinance, which she has done. She said that the form to be filled out when someone has an undue burden is an affidavit of undue burden for municipal candidates. She will make sure that change is correctly made in the Ordinance.

Mr. White wanted to make sure that when someone files an affidavit of undue burden it means that they cannot afford to pay the required filing fee.

Mrs. Lyon said that he was correct and she read Section 99.093 of the Florida Statutes that outlines undue burden for municipal candidates.

Mr. White said that doesn't say anything about not paying the qualifying fee even if you don't believe in it.

Mrs. Lyon answered no.

Mayor Sawnick opened the public hearing at 10:41 a.m.

Mr. Joseph Guffanti commented that the reason for passing this Ordinance was because the previous Ordinance was inadequate.

Mr. Charles Wilson thanked Mrs. Vock for an excellent attempt in getting this done earlier. He said better late than never.

Mr. Wayne Coment, Assistant City Attorney, wanted it made clear that there is no change being made to the Charter. This Ordinance just codifies procedural matters that the City Clerk has followed in the past.

Mayor Sawnick closed the public hearing at 10:44 a.m., with no one else wishing to be heard.

Mr. White made a motion to approve the Ordinance with the amendment of using the "Affidavit of Undue Burden for Municipal Candidates" as mentioned by Mrs. Lyon. Mr. Daige seconded the motion.

Mayor Sawnick wondered if in lieu of payment (filing fee) that a candidate could collect petition signatures.

Mrs. Lyon commented that perhaps they could use the petition process for the City fee, but they could not do anything about the fee that the State imposes.

Mr. Vitunac mentioned that the petition method was in the Code about thirty years ago. He was not sure why it was taken out.

Mr. Heady referred to Section 30-4, Resign-to-run law; he said it is not a requirement that they repeat Florida Statutes within their Ordinance. He asked if there was any reason why this Section must be in this Ordinance.

Mrs. Lyon did not have any problems with deleting it from the Ordinance since it is already in the Statutes.

Mr. Coment felt that it was easier on their citizens to just have to go to one place and see what all the requirements are, which is one of the reasons that they put this Section in the Ordinance.

Mr. Daige was in agreement with Mr. Coment's explanation. He likes the way that the Ordinance is structured.

The Clerk polled the Council and the motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Joint Resolution by and between the City of Fort Pierce, the City of Port St. Lucie, the City of Stuart, the City of Fellsmere, the City of Vero Beach, the City of Sebastian, the City of Okeechobee, the Town of Sewall's Point, the Town of Indian River Shores, the Town of Jupiter Island, the Town of St.**

Lucie Village, Florida Municipal Corporations; Indian River County, Martin County, Okeechobee County and St. Lucie County, Political Subdivisions of the State of Florida; the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County and the School Board of St. Lucie County, amending Resolution 03-126; amending the Articles of Incorporation for the Treasure Coast Council of Local Governments, Inc.

Mayor Sawnick read the Resolution by title only.

Mr. White noted that it refers to attachments that are not a part of the Resolution. He made a motion to table the Resolution until their next meeting giving Council time to review the attachments. Mr. Daige seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

B) A Resolution of the City Council of the City of Vero Beach, Florida, expressing its commitment to protect and preserve the “Vero Man” Archaeological Site; directing the Historic Preservation Commission to coordinate Preservation Efforts; Directing the City Manager to prepare an Application for Designation of the “Vero Man Site” as an Archaeological Zone pursuant to Chapter 76 of the City Code; and reaffirming that any fossils, remains, or other artifacts recovered at the Site on City Property shall be the Property of the City of Vero Beach.

Mayor Sawnick read the Resolution by title only.

Mr. Tim McGarry, Planning and Development Director, reported that the Historic Preservation Commission and the Planning and Development Department, requests that this Resolution be adopted. He noted that he also attached a copy of the Resolution that Indian River County passed for them (Council) to review.

Mr. Heady thought that for the artifacts to become the property of the City that there needs to be a date included that any artifacts found after the adoption of this Resolution are the property of the City and not the artifacts already in other people’s possession.

Mr. McGarry did not see the City going back and trying to go after artifacts that someone already has.

Mr. Heady noted that there have been artifacts already taken from this site and he did not want them to pass a Resolution that puts into question the ownership of those artifacts. He doesn’t want to be in a position that they start chasing people that already have the artifacts.

Mr. Vitunac added that this Resolution does not relinquish any claims that the City might have. He asked Mr. Heady if that was what he wanted it to do.

Mr. Heady explained that if they are going to adopt a Resolution that states that anything found on this property, is the property of the City of Vero Beach, as if it begins starting this date forward. He would not have a problem with that.

Mr. Vitunac reported that this Resolution states that if the artifact is found on City property, that it is City property. It does not relinquish claims to things found before the Resolution was adopted.

Mr. White thought that there were other laws that would supersede this Resolution as far as putting claims on artifacts already found.

Mr. Daige agreed with the way that the Resolution was written and that they should move forward on it.

Mr. Heady made a motion to amend the Resolution to have this be from this date forward. The motion died for lack of a second.

Mr. White explained that the Resolution would become effective the date that they approve it, which would be today if it is approved.

Mr. McGarry added that this Resolution just reaffirms what the property law already is.

Mr. Abell made a motion to approve the Resolution. Mr. Daige seconded the motion and it passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

C) Resolution for Assistance under the Florida Inland Navigation District Waterways Assistance Program.

Mayor Sawnick read the Resolution by title only.

Mr. Tim Grabenbauer, Marina Director, reported that a Florida Inland Navigation District Waterways Assistance Program application will ask for \$563,990.00 in pre-agreement costs on the purchase of the property. The requested amount is from the original request of \$1.15 million dollars, minus what they have already been awarded. He said that this is the last year to request on this multi-year project.

Mayor Sawnick asked him where is the money coming from.

Mr. Grabenbauer said that the money comes from the Waterways Assistance Program.

Mr. Abell made a motion to approve the Resolution. Mr. White seconded the motion.

Mr. Heady asked Mr. Grabenbauer that if they didn't approve this Resolution, how would this impact the purchase.

Mr. Grabenbauer explained that they would thank the Florida Inland Navigation District for their prior assistance and then move on. He reiterated that if Council doesn't approve this item that this would be the end of the project.

The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

D) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Joint Participation Agreement with the State of Florida, Department of Transportation to Rehabilitate Sections of Runway 11R/29L and Taxiway C Rehabilitation (FDOT #428512-1-94-01).

Mr. Eric Menger, Airport Director, explained that last year staff noticed a section of the main runway and its associated taxiway at the Airport had distress areas from block cracking and surface depressions to simple lane joint separation and pavement oxidation. As a result of the late nature of this discovery, funding has not yet been approved in the Airport's FY2009-2010 capital budget. Their consulting Engineer, URS Corporation, has estimated a budget of \$700,000 to complete this runway and taxiway rehabilitation project. He said that staff has pursued FAA and FDOT funding to offset the cost. The project is considered a high priority for FAA and for FDOT due to the critical nature of this runway and taxiway. FDOT has offered \$144,000 to help fund a portion of the cost. At this time, FAA has not offered a grant, but he anticipates the proposed project will be funded 95% by the FAA, 2.5% by the FDOT, and 2.5% by the Airport. He said that no General Fund dollars are proposed for the project. He requested approval of the Resolution and acceptance of the Joint Participation Agreement; as well as a capital budget amendment to the Airport's FY2009-2010 of \$700,000.

Mr. Daige asked if the Engineering Firm that he is using, URS Corporation, is a local company.

Mr. Menger explained that URS is a worldwide company.

Mr. Daige wondered if the resurfacing work would be done by a local company within the Treasure Coast area.

Mr. Menger said that usually all of the work is done from people within the area.

Mr. Heady wanted to make it clear that his understanding was that most projects that happen at the Airport are funded by Airport grants or by the Federal Government and that no money comes out of ad valorem taxes.

Mr. Menger reassured him that was correct.

Mr. Abell made a motion to approve the Resolution. Mr. White seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

At this time, Council moved item 9B-1) up on the agenda.

1. Request from Korean War Veterans Association, to place on Veterans Memorial Island a Bronze Plaque – Dr. Daniel Stanley to speak on the matter

Dr. Daniel Stanley was at today's meeting representing the Korean War Veterans Association. He said that the Korean War Veterans Association of Indian River County have a bronze plaque honoring those who served in the conflict that they wish to place on Veterans Memorial Island Sanctuary. They have been given approval by the Veterans Memorial Island Sanctuary Committee to place the plaque in the back of Veterans Memorial Island Sanctuary. He respectfully requested permission from the Council to move forward.

Mayor Sawnick felt that it would be a great addition to Veterans Memorial Island Sanctuary.

Mr. White commended Dr. Stanley on the process that he went through and supported the request one-hundred percent.

Mr. Heady wondered if there was some way that they could seal these plaques to help prevent erosion that exists over there. Dr. Stanley said that was not his expertise, but they could look into it.

Mr. Daige thanked all the Veterans in this community for their service.

Mr. White made a motion to approve the request. Mr. Abell seconded the motion and it passed unanimously.

2. David Gregg, John Little request

Mr. Gregg referred to the last meeting where he and John Little spoke and they both have agreed to go to FP&L and negotiate the outlines of the contract for FP&L to purchase the City utilities. They would be doing that free of charge. He said neither himself nor Mr. Little live in the City, but they are very fond of the services that this City provides to its customers and residents. He asked Council to please vote on the proposal.

Mr. Gabbard said one of the questions that he has is will this be acceptable to FP&L. He said that he was suppose to receive a phone call this morning from FP&L and he has asked them this very question. He talked to the local representative from FP&L yesterday and she was going to go to a meeting this morning and she was going to ask her supervisors if something like this would be acceptable. He thought that Council could make a much better decision after they heard what she had to say.

Mr. Gregg did not think that what was just said by Mr. Gabbard makes any difference. He said that if he and Mr. Little are asked by the Council to negotiate with FP&L and they don't want to negotiate then the matter is mute.

Mr. Heady commented that at the last meeting after Mr. Gregg and Mr. Little made their proposal, he made a motion that they accept their proposal as long as there was an understanding that there was no exclusivity in anything that they were going to do. They were not asking to negotiate a contract. They were just going to bring some parameters back to Council for them to consider. He made the motion and nothing ever happened with the motion. He said that they have two gentlemen who have expertise and have volunteered to do this work if they give them the approval to do it.

Mr. Heady made a motion to listen to any proposal that they (Mr. Gregg and Mr. Little) can bring back to them. Mayor Sawnick seconded the motion.

Mr. Gregg made it clear that the motion is to appoint himself and John Little as the City's representatives.

Mayor Sawnick withdrew his second to the motion.

Mr. Gregg thought that there was a good possibility that an arrangement may be made that would lower the electric cost substantially. He said that if they want them to do it just vote yes and if they don't want them to do it just vote no.

Mr. Heady restated his motion, which was that the two gentlemen would have the ability to go to FP&L if they had the City's approval/endorsement and bring back a package for Council to consider. Mayor Sawnick seconded the motion.

Mr. White stated that he would feel better if there was some representation from the City of Vero Beach. He said that could be a staff member or someone that they would appoint to be with Mr. Little and Mr. Gregg. He commented that Mr. Little has been out of the electric business for a long time and at one time he even worked for FP&L, which may be some conflict. He reiterated that it was important they have someone from the City either involved with this or they could send their own people up there to talk to FP&L. He then asked about liability of having both of these men do this.

Mr. Vitunac said that if Mr. Gregg and Mr. Little were official representatives then there would be some cost and liability issues. He noted that there is a Utility Commission meeting next Tuesday where they will find out if FP&L has any interest at all in the City's utilities. He thought that they might be premature in talking about this today.

Mr. Gregg stated that Mr. Little and himself will not take on a project of this size if any member of the City is involved.

Mr. White called the question.

Mr. Abell brought up the Utilities Commission meeting scheduled for March 9th and commented that FP&L is one of the power providers that have been invited to the meeting. He did not think that it was appropriate having these two gentlemen talk to FP&L prior to that meeting. He suggested that since Mr. Gregg did not want anyone involved with the City that Mr. Nason be considered for the process.

Mayor Sawnick noted that Mr. Gregg left the meeting. He knew that both gentlemen have a vast knowledge of the electric business and he felt that their help could be very important to the future of where the City goes from here. He agreed to wait until Tuesday to see what FP&L has to say. At this point he was not ready to vote on having Mr. Gregg and Mr. Little going to FP&L on their behalf.

Mayor Sawnick rescinded his second to the motion.

Mr. Daige made a motion to table this discussion until their next meeting (after the Utilities Commission meeting has occurred). He was told that Mr. Gregg pulled his offer to do this.

Council took a ten minute break at 11:28 a.m.

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 Section 58-78 of the Vero Beach Municipal Firefighters Retirement Trust; providing for expanded Investment Authority as permitted by law; providing for codification; providing for severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tom Nason, Chairman of the Fire Pension Board, was at tonight's meeting to answer any questions that Council might have on this Ordinance. He said that this Ordinance is necessary because of the new rules that have been imposed by the State. Attached to the Ordinance is a copy of the Firefighters Pension Plan Investment Policy Statement.

Mr. Heady asked Mr. Nason if he could tell them what the gain or loss in this fund has been over the last three years.

Mr. Nason stated that the loss last year was significant and well over \$100,000 and the loss this year was about \$6,700.

Mr. Heady made it clear that when these funds lose money that doesn't diminish pensions from people entitled to them, it only diminishes funds that they can draw these pensions from. He referred to page 2 of the Ordinance, paragraph (2) where the wording was stricken out that says "Subject to the 50 percent equity securities investment limit set forth in subsection (b)(1) of this section, the aggregate at cost value of investments in

securities of foreign companies shall not exceed ten percent of the fund's total asset value.”

Mr. Nason explained that this is being taken out at the request of the State.

Mr. Heady was opposed to having taxpayer's money being invested in foreign companies. He did not want to see this line stricken out of the Ordinance.

Mr. Abell referred to the Policy Statement that Mr. Nason provided where it goes over the different allocations.

Mr. White made a motion to approve the Resolution on first reading and set the public hearing for March 16, 2010. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Award of Bid No. 100-10/JV – Lift Station and Sewer Improvements at Ocean Towers

Mr. Rob Bolton, Water & Sewer Director, reported that representatives from Ocean Towers of Vero Beach have requested that the City replace their existing failing lift station with a new lift station meeting the specifications of the City. The affected property owners for this project are Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses. A poll was conducted of the owners resulting in a 71.25% favorable vote. The project was bid on January 5, 2010 and bids were opened on January 28, 2010. They are recommending that the contract go with the lowest bidder who is Tim Rose Contracting of Vero Beach. They bid below the original construction estimate. This firm has performed work for the City in the past and has always done a good job. He would recommend approval of the bid from Timothy Rose Contracting for the amount of \$121,956.00.

Mr. Heady commented that he looked down at the list of contractors and he is happy to set that the contract they want to award this project to is from Vero Beach. He also was happy to see that the cost of this was being borne by the homeowners and property owners.

Mr. Daige was also pleased that the job was going to a local contractor. He knew that the company was a local company and had worked for the City in the past.

Mr. Abell made a motion to approve the Award of Bid for the lift station and sewer improvements at Ocean Towers to Timothy Rose Contracting, in the amount of \$121,956.00. Mr. White seconded the motion and it passed unanimously.

B) Tree Trimming Annual Contract Renewal

Mr. Randall McCamish, Director Electric T&D, asked that the tree trimming annual contract with Asplundh Tree Experts Company be renewed for one more year. Their contract contains a clause allowing for two additional one year renewal terms. This would be the second renewal term. Asplundh has agreed to extend the existing contract for the final year with no price increase.

Mr. White asked if they approved this for one year would the City be going out to bid next year. He noted that there were a lot of different tree services in the area and he would like to see local people used.

Mr. Daige asked Mr. McCamish if he put this proposal out to bid to find out if Asplundh's bid is in keeping with the market. He said if there is no harm in it then he would like them to put this out to bid. He asked if they had to renew this today.

Mr. Vitunac said that they did not. He noted that the contract was up at the end of this month, so there may be a small gap.

Mr. John O'Brien, Purchasing Manager, explained that typically what they do if they come at the end of a contract and need more time, they ask the existing contractor to provide services at the existing price. He clarified that this contract was based on their crews. The crews have pricing for their trucks and for their supervisor, so it is a contract based on an hourly wage. The prices they are offering the City right now are prices from 2006. He did not have a problem going out to bid. He said that this company may offer them the same or a lower rate, which they are allowed to do. He said that if Council was to reject this bid tonight then he would ask this contractor to remain on a month to month agreement.

Mr. Daige made a motion that he was in agreement to go with the contract on a month to month basis as just explained by Mr. O'Brien and have this put out to bid. Mr. White seconded the motion.

Mr. Heady asked if this puts the City at risk by not accepting this.

Mr. O'Brien answered yes. He said that they are subject to the market.

Mr. Gabbard commented that they have a good working relationship with this company. He was a little concerned with hurricane season right around the corner and that the time is now to have all of the trees trimmed back and the necessary work completed.

Mr. Heady asked Mr. O'Brien what were his feelings as far as pricing goes. Does he think that this company has stayed the same in price, gone up, or gone down.

Mr. O'Brien thought it was fair to say people were aggressive in their pricing. He does know that Asplundh is one of the largest companies that provides this service.

Mayor Sawnick suggested tabling this until the next meeting giving Mr. O'Brien a chance to come up with some numbers. Mr. O'Brien could do some research and find out the prices that other cities their size are paying for tree trimming.

Mr. Daige withdrew his motion. Mr. White withdrew his second.

Mr. Daige made a new motion to table this item until their next meeting. Mayor Sawnick seconded the motion and it passed 5-0.

C) Change Order No. 2 to Work Order No. 1371-1 between Wilbur Smith Associates and the City of Vero Beach (RFQ 340-06/CSS – Rehab Runway 11L-29R)

Mr. Menger reported that the City entered into a Professional Services Master Agreement with Wilbur Smith Associates for professional engineering services relating to Airport capital improvement projects. At this time, all FDOT funding for rehabilitation of the entire runway and taxiway system is in place and the City Council has accepted \$2.4 million dollars in FDOT grants to complete the project. This Change Order Number 2 authorizes Wilbur Smith to furnish construction phase services in order to begin the work. The total fee to Wilbur Smith for the project would be \$327,085. He recommends approval of the agreement. He thought that was a very reasonable cost and briefly went over what this will include.

Mr. Abell made a motion to approve Change Order No. 2 to Work Order 1371-1, for the Rehab of Runway 11L-29R, with Wilbur Smith Associates, in the amount of \$118,765.00. Mr. White seconded the motion and it passed unanimously.

D) Work Order #1372-7 between URS Corporation and the City of Vero Beach; Runway 11R/29L and Taxiway C Rehabilitation (FDOT #-1-94-01)

Mr. Menger showed on the doc cam where this runway is located. He explained that this project is a result of staff discovering significant deterioration of sections of pavement on the main runway and taxiway that need immediate repair. URS Corporation's proposed fee for the design work is based on actual cost not to exceed \$63,157.00. An amendment to the Airport's capital budget will be needed to proceed with this work. Once the project is designed and bid, a construction contract will be brought before Council for approval.

Mr. White made a motion to approve Work Order #1372-7. Mr. Abell seconded the motion.

Mr. White asked if they could place any restriction on flights on Sunday mornings.

Mr. Menger reminded him that there is a voluntary agreement that touch and goes are not to begin until 12:00 noon on Sunday.

Mr. White was referring to Flight Safety and teaching. He said that there are a lot of churches in the area and there seems to be one plane after another taking off on Sunday mornings. He just wanted to see if there were any restrictions that they could impose to at least have the planes wait until after church on Sundays before they took off.

Mr. Menger said all they have is the voluntary agreement for touch and goes. He said that they can't close the Airport on Sundays. However, he could talk to Flight Safety, but by Federal Law they cannot mandate anything.

Mr. Daige mentioned that if it is Flight Training Schools they are talking about then the schools are a business and operate under City guidelines and ordinances. In their paperwork that the school signed it does state that they cannot have any adverse effect on citizenry. The City of Vero Beach has every right to enforce that and it is their responsibility to look after their citizenry. He instructed Mr. Menger to speak with the school and if they don't get a response then they will have to do something about it.

The motion passed unanimously.

E) Proposed Lease Termination Agreements requested by Bridgeton Real Fund III, LP: Airport Parcels 17 and 19

Mr. Menger commented that he has received a request from Bridgeton Real Fund to terminate their lease agreement that they currently have for Airport Parcels 17 and 19. He said that Bridgeton are good tenants and have always paid their rent on time. He said that this is not the only parcels that they lease at the Airport and they will continue leasing those other parcels. This particular parcel is vacant and was never developed. Staff negotiated this agreement with both parties given the fact that there will be a loss of revenue to the City. What they have asked for is one year of advanced rent and to forfeit their security deposit. This comes to a total of \$113,000. He said that Bridgeton would need to pay the Airport these funds within five days of Council approving the termination agreement. They would also need to pay the taxes for 2009, as well as 2010, to the Indian River County Tax Collector. Also, there will need to be an environmental Phase 1 Audit done on the parcel so the City can be assured that when Bridgeton leaves that the parcel is clean. With these things done, he would recommend that Council approve the termination agreement.

Mr. White explained that Mr. Malek, owner of Bridgton Real Fund, is his landlord for his business. He knows that Mr. Malek has built the new buildings located on Aviation Drive. He feels that this seems a little stiff for him to have to pay to get out of this agreement. He wondered if Mr. Malek could be given some relief on this one year rent.

Mr. Menger said that he also is very sensitive to the needs of the business owners. He said that looking back, prior Councils' have approved charging an advancement of two years rent. He doesn't think that they will be able to lease this property even within a year. This is a kind of situation that they don't want to hurt Mr. Malek, but they also don't want to hurt the revenue stream at the Airport either.

Mr. White realized that business is business. However, knowing the amount of buildings that Mr. Malek owns in this area and the tenants in these buildings by hurting that entity and all of sudden they can't make their rent payments it might hurt the City.

Mr. White asked Mr. Malek if he was agreeable with all of the terms that have been put forward.

Mr. John Malek answered his question by saying that it puts a strain on his business. They did not want to give this property up, but it doesn't look very bright for them. It was negotiated this way with the Airport Authority. He knew that there was talk yesterday about taxes being an issue. As far as the five days in order to pay this fee he was not privy to that and will have to do due diligence in making sure that the Airport receives their check.

Mr. White felt that it would behoove the City to allow a little stretch in order for Mr. Malek to have to pay this.

Mr. Daige referred to the agreement and said that by signing this paperwork the entity has agreed to the terms. He was told that was correct. He asked if this agreement would hold up legally if it was to go to court.

Mr. Vitunac said all they need to do is accept it as a contract, but they can always make changes to the contract if they feel they are necessary.

Mr. Daige agreed that this was a lot of money for a local business to have to come up with in five days. He suggested stretching the payments out. He suggested having three payments made over a certain amount of time.

Mr. Malek said that they could probably do this. He said that the City has been very cooperative and he wanted to keep a good relationship with the City.

Mr. Malek asked if by terminating this agreement, does it eliminate him from leasing property in the future.

Mr. Menger answered no.

Mr. Malek acknowledged that he signed this paperwork and did not read it fully. If they have agreed to it then he does not want to go against it and they are willing to step up to the plate.

Mr. White told Mr. Malek that they were trying to be helpful. They would never hold it against him if he decided to come back.

Mr. Heady commented that they pay the Airport Director to negotiate the best deal for the City Airport and he has done that. And now what they are proposing doing is undoing what Mr. Menger has done to see if they can make a better deal for the business owner. He is always in favor of business owners, but this discussion seems a little ridiculous. He made a motion to approve the termination agreement as written. Mayor Sawnick seconded the motion.

Mr. Malek stated that by having the ability to make the three payments would help him and if they have the ability to make the payments sooner then they will.

Mr. Daige amended the motion to spread the payments out over three payments within a 90 day period. Mayor White seconded the amendment. Mr. Malek was in favor of doing this. The motion passed 4-1 with Mr. Heady voting no.

Mr. Menger said that he would take the agreement and have it revised.

Mr. White made a motion to approve the contract as amended. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

F) Discussion regarding the Electric Utility – John Lee

Mr. John Lee, Acting Electric Director, went over the process of the separate distinct bills that they analyze and pay.

Mr. White wanted to know why they were still getting bills on FMPA letterhead.

Mr. Lee explained that the Stanton contracts are with FMPA.

Mr. White thought that the City owned Stanton.

Mr. Lee explained that the City doesn't own anything. They buy capacity from those units on a fixed price through contract. That capacity was bought with bonds from the FMPA. They certify that they will take that power 365 days a year when it is available at a price.

Mr. Lee continued by saying that even though January was a very cold month and high usage of electricity was used these bills were lower than what they would have been with FMPA. He reminded Council that they were already going to lower the bulk rate power cost by \$2.50 and they can lower it by another \$2.00 in April. By that time they will have a second round of these consolidated bills to look at and they probably will be looking at another change probably in July.

Mr. Heady quickly added the numbers and felt that their bills should be less than what they are. He asked Mr. Lee if what he said earlier was that they don't own anything. He asked with the bonds they are paying off, how they can not have any ownership rights.

Mr. Lee reiterated that they own the right to buy the capacity. If they relinquish that then it goes back to FMPA and the members in the All Requirements Project can accept those capacities.

Mr. Heady brought up the rebate that they were receiving from FMPA on some gas charges. He also thought that there was a refund from the oil in the tanks.

Mr. Lee explained that they bought the oil that was still in the tanks from FMPA. The way it works is that they take that cost and put that oil back into inventory.

Mayor Sawnick suggested to Mr. Heady that he meet one on one with Mr. Lee if he has more questions on this.

Mr. Heady said no sir that he wanted to have this discussion right now.

Mr. Lee suggested to Mr. Heady if he would put his concerns in writing in the form of a question that he would be happy to send it to FMPA for their interpretation.

Mr. Heady stated that his understanding when Sue Hersey was at one of their meetings, in regards to the ownership rights of capacity, that there was a concern with FMPA versus Orlando because they could transfer or sell and get some value if it went to a municipality. This is the first time he was hearing that there is no asset value at all.

Mr. Lee again explained that they have purchased the capacity every single day from these units and pay an appropriate amount of money for the capacity. They own the rights to this capacity as long as they continue to pay.

Mr. Heady referred to the first bill with OUC and asked if there was any breakdown.

Mr. Lee said that there was and he would make sure that Mr. Heady receives a copy of the breakdown.

Mr. Heady referred to the last page of the document, NERC compliance, when he looks back at some of the old documents from FMPA, he thought that this was something that was included as part of their rate.

Mr. Lee said Mr. Heady was correct. He included this in their backup so that Council could see what a small amount the bill was. He told Council that he would bring the bill to this meeting and in the future if he needs to bring it before Council then he will.

Mr. Heady continued by saying that the FP&L bill for the transmission of \$280,000. He asked if this was a 1/12th component for the yearly charge of transmission for their lines.

Mr. Lee answered no. He said that FP&L has what they call a transmission tariff that applies to everyone in the State of Florida including the City. He explained that in high usage times they will pay more money because they are transporting more power.

Mr. Heady was looking at the FMPA charge per kilowatt and asked how that number compares to OUC. Mr. Lee said that he would get Mr. Heady a copy of the spread sheet that breaks this out.

Mr. Daige asked Mr. Lee to explain what NERC and FERC stands for.

Mr. Lee replied National Energy Regulation Commission and Federal Energy Regulation Commission. He explained that the City has a responsibility to make sure that they do comply with these different agencies and everything has been documented properly.

Mayor Sawnick stated that Mr. Lee's door is always open if they need to talk to him.

G) Discussion regarding the County Commission Meeting of 2/16/2010

Mr. Gabbard made a few comments regarding his attendance at the County Commission meeting on February 16, 2010. He provided Council with a copy of the verbatim minutes when he spoke and when Mr. Heady spoke at the County Commission meeting. He said that on February 16th he was watching the County Commission meeting at City Hall. Mr. Heady had just taken the podium to speak about the electric utilities indicating to the County Commission that he was going to give them an update about what had been happening. Over the next forty minutes, he heard comments that were made by Mr. Heady that were stunning. Mr. Heady told the County Commissioners that he had been denied access to the working copy of the Orlando Utility contract. He further stated that to this day he has not seen the contract. Mr. Gabbard said these comments were inconsistent with the facts. He said that the City Clerk did show Mr. Heady this original work copy and also made him a copy of the contract and put it in his mail slot. He then went to the County Commission meeting and asked to address the Commission. He said his comments as well as Mr. Heady's comments are in the verbatim transcript that he has provided to them. At the conclusion of the meeting he returned to his office and Mr. Heady sent him a memo asking for a list of the inaccurate statements that he made at the County Commission meeting. He received this document around 4:00 p.m. in the afternoon and was unable to respond to it because their City Council meeting was scheduled to meet that night at 6:00 p.m. On February 17th he forwarded a memo to Mr. Heady explaining why he did not respond to his request of the previous evening. Later that day he was in the Clerk's office when Mr. Heady came into her office and handed him a second memo dated February 17th. In this memo, Mr. Heady demanded a written response stating "You can refuse if you wish, but I think your refusal is at your own peril." He believes that Mr. Heady committed a Charter violation by demanding that he comply with this order or face retribution.

Mayor Sawnick reminded Council that they are discussing items and not debating them. He said that they all need to work together. He said even if he didn't like Mr. Gabbard he knows that he would need to work with him because there is a lot of work in this City that needs to be done.

Mr. Gabbard agreed that there is a lot of work that needs to be done.

Mr. Heady brought up that the City Manager is not the only one who has publically stated his concerns. The Mayor said that he (Mr. Heady) was troubled by what he had to say at the County Commission meeting. He asked the Mayor at a previous meeting what troubled him and the Mayor chose not to explain what he said that troubled him. He felt that he was entitled to an answer as to what troubled the Mayor or what stunned the City Manager. With respect to him issuing Mr. Gabbard orders, he read parts of the letter that referred to that (please see attached). He said that the City Manager did not read the next sentence of the letter, which he read. Mr. Gabbard stated that he spoke for forty minutes in front of the County Commission, which he did not time. Mr. Gabbard said that he has been shown the working copy of the OUC contract and there is no question that he has seen the contract and the original was shown to him by the City Clerk. Mr. Heady wanted to know where the original contract that was shown to Council on April 8, 2008, was between April 7, 2008 and February 2, 2010. He asked the City Manager if the document was in Massachusetts.

Mrs. Vock stated when she received the OUC contract that was shown to the City Council on April 7, 2008.

Mr. Heady asked the City Manager if he ever insured that this document from April 7, 2008 was maintained as part of the public records in City Hall. He asked the City Manager if that was an accurate statement. Mr. Vitunac started to answer the question. Mr. Heady said that he was asking the City Manager this question.

Mayor Sawnick tried to stop Mr. Heady from speaking and had to use his gavel. He told Mr. Heady that if he ask a Councilmember to stop talking for a second please do so that they can address the issue.

Mr. Heady stated that he wished he would address the issue in the manner in which the question is asked.

Mr. Vitunac reviewed the history of the OUC contract. He said that if they go back to the April 7th meeting date, all the members of the City Council went up to the City Manager's office to review the contract. The last best draft of the City Council review was emailed to R.B. Sloan on that Monday morning and printed at City Hall and that was the working copy. He said that this matter is unusual because it is subject to the confidentiality law and they were told by Sue Hersey that if they divulge the bidding information of any of the participants that they would not have an electric provider by January 1, 2010. The unredacted full copy was emailed to the City and then shown to each of the City Councilmembers one on one, which took the entire day. By end of that

day, a redacted copy was provided and Mrs. Hersey and Mr. Sloan went to Staples and made copies of the contract and the redacted copy was hand delivered by the Police Department to the Utility Commission members and City Council. Mrs. Hersey kept the unredacted copy and the redacted version was put on the internet so everyone could see it.

Mayor Sawnick felt that Council needed to solve these problems among themselves and not before the County Commission.

Mr. Heady stated that so he was clear the testimony from the City Attorney was that the original document on the desk that was discussed with the Councilmembers is the copy that was given to the City Clerk. The City Attorney has said that is the copy with Ms. Hersey's notes. He said that if he looks at this document he will be able to find Ms. Hersey's notes that were made throughout the day.

Mr. Vitunac told Mr. Heady that he will need to ask the Clerk that question. He went on to say that the original contact is in the file and Mr. Heady was given a copy of it.

Mrs. Vock stated that after the February 2, 2010 meeting, she approached Mrs. Hersey and asked her for the original OUC document that the Council reviewed on April 7, 2008.

Mr. Heady stated that the redacted copy that was distributed that evening by a uniform Police Officer to the City Council and Utilities Commission is the one that the City Council reviewed. He said that when you print the redacted copy and you print a transparency you will see that it lines up and underneath the black marks are the numbers that have been redacted. He asked if that was an accurate statement.

Mr. Vitunac explained that this was a working document. It came in the morning and went out after 5:00 p.m. and having five sitting Councilmembers review it. If there were any suggestions or changes made by the City Councilmembers at that meeting then it would have affected the spacing of the working document. He said that the document could have changed during the day as comments were made.

Mr. Heady said that if there were changes made then there were notes to the working copy that would reflect those changes.

Mr. Gabbard told Mr. Heady that he would have to ask Mrs. Hersey where she made her notes and changes to the document. He said that all he has seen regarding his overlay are things he waives around in different venues in making all of these wild claims. He told Mr. Heady that if he has some information then he wishes that he would share it with him and maybe they can shed some light on this issue and it won't trouble Mr. Heady so much.

Mr. Heady said that he tries to get the City Manager to shed some light on things. Mr. Gabbard said that is not true. He told Mr. Heady that he has only been to his office one time since his election.

Mayor Sawnick told Mr. Gabbard and Mr. Heady that what they were discussing at this point were the comments made at the County Commission meeting of February 16, 2010. He said right now they are moving off of the topic. He told Mr. Heady that he needs to work with their Charter Officers and determine if he has the correct documents or not. He was very concerned about being productive and not being productive.

Mr. Daige noted that he was at the County Commission meeting when Mr. Heady spoke. He said if you go back and look at the recording he said that it shows that Mr. Heady was at that meeting speaking on his own, giving his input and his opinion. In the past if an individual Councilmember was going to go out and represent the entire Council they would vote on it. What he is hearing here today is that all the information that is on file has been given to Mr. Heady. He has asked each individual Charter Officer if Mr. Heady has received all of his information and they have all said yes. He said that right now they are under contract with OUC, they can go back and review the contract, but as a Council they need to continue working to bring their electric costs down. They need to be cautious how they proceed because he is not going to put their City taxpayers in jeopardy. There are a number of ratepayers who are hurting and they need to bring their rates down. He has talked to the City Manager numerous times since he got back on Council. Again, he reiterated that he has been told that Mr. Heady has all of the information that the City has.

Mr. Heady brought up the comments that Mr. Gabbard made at the County Commission meeting and one of the things that he said was that he was "stunned" by the remarks that he made. He asked Mr. Gabbard to identify with specificity what remarks he made that "stunned" him.

Mr. Gabbard stated that he (Mr. Heady) had not received or seen the original work copy that was shown to him on February 2, 2010.

Mr. Heady commented that there is a difference in being shown a copy and being shown the original document. He thought that it was pretty clear that what he has asked for over and over again was to see the original document. What he is being told today is that original document has been returned from Massachusetts and is in the custody of the City Clerk. Mr. Gabbard interrupted Mr. Heady and asked Mrs. Vock if Mr. Heady was shown the original OUC contract. Mrs. Vock answered yes. Mr. Heady asked Mrs. Vock if she knows whether or not the document that she showed him is the original document that was on the table on April 7, 2008. Mrs. Vock stated that she was told by Mrs. Hersey that the document that she gave her was the original document that Council looked at on April 7, 2008. Mr. Heady said to Mrs. Vock then she has been told that was the original document. Mrs. Vock answered yes. Mr. White spoke that this issue has been beat to death. He said that it was a waste of time and money. He said staff has been sitting in this meeting all morning and have not even gone to lunch. Mr. Heady told Mr. White that as the former Mayor he signed a contract and was not told that there were any changes. He said after listening to all three Charter Officers that it was clear that the original document was not maintained at City Hall and there is no degree of certainty that

the document that was returned is the original document. However, now he has heard from the testimony that there are notes. He said when they take a break he would like the City Clerk to retrieve the document, and with some witnesses he wanted to review the document to see if there were some notes on it. The last time he looked at the document there were not any notes.

At this time, Council took a lunch break and the meeting reconvened at 3:30 p.m.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

- 1. Request from Korean War Veterans Association, to place on Veterans Memorial Island a Bronze Plaque – Dr. Daniel Stanley to speak on the matter**

This item was heard earlier in the meeting.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

1. Correspondence

2. Committee Reports

Mayor Sawnick reported that he attended the Economic Summit in Sebastian, the APPA Rally in Washington DC, he met with all five County Commissioners asking to keep lines of communication open, he attended a Mainstreet Vero Beach Task Force meeting, and the Mayor's beach clean-up. He mentioned that on March 12th there will be a Coffee with the Council and on March 13th they will be holding the Grand Opening of Humiston Park.

Mayor Sawnick went over his comments that he held from making earlier in the meeting. He said as far as utilities go they are looking at adjusting the transfers. The letter that was sent to FP&L and signed by the City Manager was a letter that he approved and he was happy with what was in the letter. He reminded Council that the census was coming up soon and it was important that people participate in the census. He said that they will

be sent out in the end of March. He expressed to Council that they all need to work together and they all will have different opinions.

3. Comments

B. Vice Mayor Sabin Abell's Matters

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

Mr. Abell said that he would speak after Mr. Daige's matters (which was what took place at the meeting). He reported that he attended the Economic Summit, Coffee with the Council and the Treasure Coast Regional Planning Council.

Mr. Abell wished that Mr. Heran could provide backup material before their meetings so that Council has a chance to review the figures that he is going over.

Mr. Abell brought up the OUC contract and was still baffled by what Mr. Heady was looking for. He stated that he has had a copy of the redacted contract, which he has had since the Utilities Commission meeting that was held on April 8, 2008. He had soon after that the signed contract, which was signed on April 21, 2008 by the Mayor and OUC. He said that these things have been in his possession, since April 8th or sometime shortly after April 21st. Then they have this bible of contract revisions which was given to them and he studied two different revisions for four hours. As far as he is concerned he hopes they can put this issue to bed. The explanation is quite obvious here. He thinks that he is right when he says that there is one word that has been changed or added and that is entitlements. There is nothing more serious than that that has been changed. He then thanked staff and the Charter Officers for their dedication to the City of Vero Beach.

3. Comments

A) Time of Future City Council Meetings

Mr. Abell commented that based on the time that this meeting has taken today; he would like to see them have all day time meetings. He said that there are a lot of people who do not drive at night and cannot make night meetings. He made a motion to change their meetings to day time meetings. Mr. White seconded the motion.

Mayor Sawnick understood Mr. Abell's point and felt that healthy discussion is very good. However, he still agrees with having one meeting in the morning and one meeting at night. He needs to do a better job of moving their meetings along. He has talked to different cities and it seems that most cities hold their meetings at night.

Mr. White felt that their Council meetings have turned into marathon meetings. He said if they are going to have night meetings then they need to have a time limit for people talking under Public Comments and how many items Council can put on their agenda. He said right now staff are having to take furlough days and then asking them to be here

from 6:00 at night until 12:00 midnight is not fair. He commented that there were only four residents of the City who spoke this morning. Also, the Chambers were packed this morning, which means people come out during the day time. He said everyone else meets during the day, including the County, so why do they have to have night meetings.

Mr. Daige had no problems with having night meetings, but agreed that they needed to have a time limit for public comments. He wished to have one morning meeting and one night meeting. He said Council should use discretion on what items that they put on the agenda when there are night meetings.

Mr. Heady brought up Mr. Daige's request to move their next meeting to 7:00 p.m., rather than 6:00 p.m.

Mr. Daige explained that he is going to be out of town for a business meeting on that day and was not sure that he could make it back in time if the Council meeting started at 6:00 p.m.

Mr. Heady agreed with Mr. White that the Council Chambers was packed for today's meeting, but it was also packed at the last meeting that they held and that was at night. He said that if they are holding marathon meetings then it is a demonstration that a lot of people are paying attention to what they are doing. He said that the average person speaking under Public Comments speaks for less than three minutes. If they speak any longer than that then they start losing people's attention. He felt that they needed to accommodate the public, which means a day time meeting and a night time meeting.

Mr. Abell agreed that if they were going to have night meetings that they needed to think about limiting the time someone can speak under Public Comments and about restricting the number of items that a Councilmember can add on to the agenda under their matters.

The motion to hold the meetings in the daytime at 9:30 a.m., failed 3-2 with Mr. Daige voting no, Mr. Heady no, Mr. White yes, Mr. Abell yes, and Mayor Sawnick no.

The Council agreed to hold their next meeting (March 16, 2010) at 7:00 p.m.

- C. Councilmember Tom White's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**

Mr. White reported that he attended Coffee with the Council and the St. Francis Boardwalk Dedication Ceremony.

Mr. White commented that he knows that there have been a lot of things said and comments made. He brought up the FMPA contract and said that they knew that they were in a bad contract several years ago and worked hard to get out of it. He wanted citizens to think about the FP&L rate increase that they probably will eventually get approval for. He said the transfers that are made from the electric system to the General

Fund go back to the community. He mentioned that Riverside Theater and The Center for the Arts Museum's grounds are both maintained by the City and no one is making any money by doing that. He said that they lease the property for \$1.00 a year. The City is succeeding in getting their utility rates lower. If you have a complaint and you are on FP&L utilities there really is not a venue to make a complaint. You couldn't come up to the podium and say I am having a problem, like the citizens of this community can do. There was some talk that there is going to be a campaign for the sale of the Power Plant and they want to blame four people for the rise of rates in electricity. He said this all started before he ever got on Council. Since he has been on Council he has never voted for a rate increase. He suggested having meetings where people can come in and ask questions and be given some history on how they got into this situation and how they are getting out of it. He was here during the hurricanes and he knows how fast that the City customers got their utilities turned back on. He said that it was in record time. He feels that the City is a wonderful place to live and raise children. The citizens need to have faith in their officials because they are doing the right thing. The City Manager and the City Attorney have spent hours on the OUC contract to get the best deal that they could get and have done a great job to get the best for this community. They hired outside consultants because they have the knowledge and expertise. He didn't think that there was anyone on this Council who has an Electrical Engineering degree. He knows the people that they hired did a good job and the best that they could for this community. He signed the OUC contract as Mayor at the time. The week before he signed the contract, Council reviewed it and he said that he didn't know any changes were made between that week and the week that he signed the document. He was not aware of that, however he is being told now that the changes were made prior to him signing the contract. He signed the contract with Council's approval and as far as he is concerned whether the contract was redacted or not redacted, they saw the unredacted version. He mentioned that under the penalty clause for FP&L in the contract it was unlimited. He said that the \$50 million dollar penalty clause that they have in the OUC contract works both ways. He felt that if they keep messing around with this contract and someone was to say that this contract is no good, he does not want to have to pay this \$50 million dollar penalty clause that is in the contract. He said that they need to be very careful where they step. He said that they had the best expertise in the business hired to make sure that the contract was done right. He firmly believes that they did the right thing and made the right choice. His vote will always be to stay competitive with their next door neighbor.

3. Comments

A) Discuss Finance Commission Members

Mr. White delayed this item until the next meeting.

D. Councilmember Brian Heady's Matters

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

Mr. Heady stated that he was hired by the citizens of this community and his obligation is to the citizens of this community. He has been told on numerous occasions that they all need to get along and they all need to work together. He said here is what he needs to do and that is to work for the people that pay his salary and that is the citizens of the community. It is his job to protect them and not to protect anyone sitting on this dais. The former Mayor said that he made the right choice. The problem is he did not know the choice that he was making because the contract he voted on was not the contract that he signed. He said that there were over 400 pages of correspondence that indicated changes to the contract and he was never told about these changes. Mr. Heady said that what he has done since he got on this Council is try to get to the bottom of things. He said that when the story continuously changes that raises a lot of red flags for him. He just wants the truth to be told. He referred to the FP&L contract with unlimited penalties and said that the reality is that the penalties involved in the exit of a contract involve stranded costs and that is not unlimited. He agreed that Council did approve the OUC contract, but the problem is that there were numerous changes to the contract. He tried to ascertain exactly what changes were made. So what he did was ask for the original document that was on the desk on April 7, 2008. The City Manager and City Attorney have told him that he has been shown that document. He asked the City Clerk, who is the custodian of records, if she could or would certify that the document that she has been given is in fact the original that was on the table on April 7, 2008.

Mrs. Vock stated that she would certify the original signed document (signed April 21, 2008), but she didn't feel that she could certify the document that Council looked at on April 7, 2008 as being the original document.

Mr. Heady stated that was the problem, that this document was out of the hands of the City's records custodian. The contract that was returned by their consultant states that this was the original document. However, he said that a casual observer could go in and look at those documents and come to a very clear conclusion that it is not the original document that was on the desk on April 7, 2008.

Mr. Heady mentioned that earlier Mr. White said that Council had no control over the price increase from FMPA. He said one of the reasons that he has tried to find the original document is because he wanted to make sure that any price increase in the future is consistent with what was agreed to in April 2008. He said that the signed contract that the City Clerk states that she can certify was dated April 21, 2008. He said that you can take that document and compare it to the redacted version and you will see that there were numerous changes made. When the consultant was present for one of their meetings the Mayor did not allow Council to ask questions and made a motion to recess the meeting and the consultant left and he was not given the opportunity to ask her these questions that he has.

Mr. Heady mentioned that there is correspondence that has been going back and forth between the City Manager and himself. Mr. Gabbard has made a charge that he violated the City Charter that prohibits individual Councilmembers from issuing orders to Charter Officers. He realizes that Mr. Gabbard is a Charter Officer and he did tell him that he

wanted him to identify with specificity anything that he said at the County Commission meeting that was incorrect. He asked Mr. Gabbard to put this in writing and Mr. Gabbard has refused to do it. He told Mr. Gabbard that he could refuse to do this, but if his refusal is at his own peril and his credibility is at risk with him and the elected commissioners. He stands by this and said that Mr. Gabbard's credibility is at risk. He feels that it is a problem to have a City Manager whose credibility is questionable. The City Manager stated earlier in this meeting that he was given the original document, but the City Clerk has said that she would not certify that document as being the original document. The City Manager and City Clerk have both said that the original document was not maintained at City Hall. Instead it was maintained in Boston at a consultant's office who has a vested interest in this. In Florida they have Sunshine Laws and Public Records Laws and clearly there is a problem when the City Manager and City Attorney fail to secure the contract at City Hall. There is no way that the citizens of this community can ever be assured that the document that was presented is the document that was on the table. He said based on the figures that were in the original document they were told that their rates would be the same or lower than FP&L. He said if you have recently paid an electric bill in the City then you know that is not true either. The continued refusal by the City Manager and the continued comments from the City Attorney that the document filed is the original, leads to more questions. They are questions as to whether or not at this meeting they are being truthful or alternatively whether or not they do not have a clue about the document. These things clearly present problems for him as a City Councilmember. He felt that it was important that they be able to trust the City Attorney and City Manager. He said at this point that is not a position that he is in.

A) David Gregg, John Little request

This item was heard earlier in the meeting.

B) Internet connection for meetings (cost v guarantees)

Mr. Heady recalled that this item was on their last agenda and at that time he asked that Council approve the connection not to exceed \$2,500 to get their Council meetings live on line. His motion was declined. However, in the meantime the City Clerk has been working on this and he understands that this work can be done for less than \$2,500. He made a motion to allow the City Clerk to proceed with getting the live video stream over the internet. Mr. Daige seconded the motion for discussion.

Mrs. Vock explained that she has worked with Nancy Reichardt, Information Systems Manager, in coming up with three different cost estimates for live video streaming. She encouraged the Council before making a decision today to view each of the sites because the quality is different for each option.

Mr. Heady withdrew his motion and said that they would bring this up again at their next meeting after Council has had a chance to review the different websites.

Mrs. Nancy Reichardt, Information Systems Manager, explained the different options and the costs associated with each of the options.

Mr. Daige requested that the Clerk provide a letter with what option would be her recommendation.

C) Written Answers from City Manager

Mr. Heady asked Mr. Gabbard to tell the public if he had any intentions to put in writing those things that “stunned” him by his (Mr. Heady’s) comments at the County Commission meeting and put in writing those things that were not true.

Mr. Gabbard stated that those items are in writing and he will pass out copies of the transcript of the statements that he made, as well as comments Mr. Heady made at that Commission meeting. He also suggested getting a copy of the DVD from the Clerk’s office and watching it.

Mr. Heady understood that there is a transcript prepared by the County staff and there is a DVD. He said that is not his question. He repeated his question.

Mr. Gabbard stated that he answered those questions earlier in the meeting.

Mr. Heady then asked Mr. Gabbard if he would or would not put in writing for the public record those things that he said “stunned” him.

Mr. Gabbard said that they are in writing. He referred to the transcript. Mr. Heady said that was a transcript from the County Commission. Mr. Gabbard said that is all he intends to do. He invited Mr. Heady to come up to his office and discuss these things. Mr. Heady said that he would not do that because he does not have private business to conduct with him, only public business.

Mr. Daige asked Mr. Heady what he would like this Council to do. He said that they need the vote of the Council to give direction to the City Manager.

Mr. Heady did not think that he needed the vote of the Council. He said that they were all allowed to ask the City Manager for backup documentation on things that relate to City business. He also does not think that he needs a vote of the Council to ask that the City Manager make the public records request clear.

Mr. Gabbard stated that he would have the City Clerk transcribe the comments that he made earlier, exactly with specificity as to what his objections and concerns were to his comments and he will sign it as what he said.

D) OUC Contract

Mr. Heady stated that the OUC Contract in question is a serious issue and continues to be a serious issue. He said that next Tuesday at the Utilities Commission meeting they will get some answers from some other power providers that may or may not have more of an impact on what he intends to do with respect to the OUC contract.

E) City Manager resignation / terminations

Mr. Heady told Mr. Gabbard that what he wanted from him was a memo identifying with specificity those things that he (Mr. Heady) said to the County Commission that he was “stunned” by his remarks. He wanted to know with specificity what remarks did he make that stunned him. The second thing that he wanted from Mr. Gabbard in writing is a document identifying exactly the words that he (Mr. Heady) used at the County Commission meeting that he states are inaccurate.

Mr. Heady wanted to know for the public record with the City Manager’s current contract is there anything in that contract that would result in the taxpayers of Vero Beach being on the hook for some huge payment to the City Manager in the event of his resignation or termination. Mr. Heady was told that the City Manager does not have a contract, nor does the City Attorney.

Mr. Vitunac told Mr. Heady that if he reads the Charter he will find that there are no contracts.

Mr. Heady said so both the City Manager and the City Attorney agree that they have no rights that extend pass their employment here.

Mr. Daige noted that in the Charter it outlines the step process that if a Charter Officer is terminated that they are entitled to a hearing. He asked Mr. Vitunac to read this to the Council.

Mr. Vitunac explained that if Council wishes to fire a Charter Officer that they must pass a Resolution to that effect telling why. The Charter Officer has a certain time period in which they can request a public hearing be held and the Resolution to fire them is adopted or it is not.

F) City Attorney resignation / termination

This item was heard along with item 10-E) under Mr. Heady’s matters.

G) Malfeasance, misfeasance, nonfeasance

Mr. Heady mentioned that at their last meeting he talked about the three words, malfeasance, misfeasance and nonfeasance. He said that nonfeasance is the failure to carry out an obligation. He said that it was pretty clear that the Public Records Law requires that public records be kept for the public to review. If there are documents that have some confidentiality for some term it does not eliminate the requirement for the

custodian of record to have that document here at City Hall. He felt that this was a \$2 million dollar document that should have been safeguarded by the City and clearly the City Attorney and City Manager took no steps to safeguard the original contract, which they allowed to be removed from City Hall and taken to Massachusetts for a period of almost two years. He said that the document did not resurface until he demanded to see it.

Mr. Heady brought up malfeasance and read the definition. He said that it is the commission of an act that is illegal or wrongful. He thinks the destruction of a public document that is required to be kept is an illegal act to knowingly destroy the document, which would be malfeasance. He referred to the document that Council observed on April 7, 2008 and said that he was not sure where the document was because no one has told him that yet. However, he felt that if this matter was taken to Court, he doesn't think that there is a jury that would agree considering the evidence available.

Mr. Heady brought up misfeasance and gave the definition. He said that it is an improper execution of an act that is in itself unlawful. He said clearly it is unlawful to keep the public record at a consultant's home when it belongs here in City Hall. He understands the reality of the support that he has on this Council. He also understands the legal implications of those three words and he also understands what the clear evidence on the table points to.

H) Financial Reports / Solari / Electric

Mr. Heady reported that he has asked Mr. Lee to give him the breakdown of the electric bills, which he is sure that he will receive.

Mr. Heady noted that when Bob Solari was on the City Council, he developed a breakdown in the financial reports that Council received every month. His method of breakdown was an easy comprehensive way for Councilmembers to review the finances of the City. He asked, if at all possible, that they return to that kind of breakdown, and if this was not possible then he wanted to know the reason why.

Mayor Sawnick mentioned that he has talked to staff about looking into providing that document again.

Mr. Gabbard said that could be done. He will send them a copy of what they did in the past and if Council agrees then they will reinstitute doing this again.

I0 Discussion of Towing Companies within the City limits

Mr. Heady met with City staff recently regarding the towing contract and to change the method that they are currently using. There is an opportunity for the City to have just one vendor or just one towing company to handle all the towing required within the City limits. The towing company has offered to pay the City for this privilege. At the last meeting Mr. Daige announced that he wanted to see that the money goes to a particular

place. The problem with this proposal is that the money would have to come from the City residents who had to pay the towing fee. He said that you can be the highest contributor and therefore win the bid, but the only way that those dollars will be recouped is by charging the people who have a vehicle that has to be towed. He said what they really will be doing is increasing cost to their citizens and he was not in favor of that at all. The way they handle this now is by a rotation basis and this allows several different vendors to be used. The vendor that was chosen by the City Manager and Chief of Police is an out of town vendor. He said if they were going to give it to someone then consideration should be given to a company that resides within the City limits.

Mr. Gabbard explained the reason that this was brought forward by the Chief of Police was because there was an opportunity to recover some costs and add revenue for the City. It would also provide that the rates would not be affected. He said for the record he was not involved in the bidding process. The reason that he met one on one with each of the Councilmembers was because he was sure that doing this would generate some phone calls. They tried doing this same thing about twelve or thirteen years ago and decided against it. Staff has decided that if they continue going forward with this they would have a meeting with all of the wrecker companies to get their thoughts and input. He expressed that this would require an Ordinance change, but they are not even close to bringing it before Council. He reiterated that if they decided to proceed with this, they will have a public meeting with the wrecker companies.

Mr. Heady felt that before staff spends any more time on this he would rather see them get direction from the City Council that it is something that they would want him to do. He said that he does not want them to do anything at all. He is happy to be able to spread the work out to different towing companies. Again, he reiterated that he would like to see that no work be done on this until staff is given clear direction from the City Council.

Mr. Gabbard did not have any problems with that.

Mr. White suggested keeping the rotation basis with the reliable wrecker services that they have and maybe have a license fee initiated.

Mr. Gabbard stated that is what they are doing now. He said having one wrecker service might be something that would have more appeal when times get better.

Mr. Daige brought up that this is an item placed on the agenda by Mr. Heady. He said nothing has been decided and they don't have any backup material on this so what he was hearing is that they were going to put this program on hold for now.

Mr. Heady stated that this is on hold until the City Manager is given direction from the City Council to move forward.

J) Red Light Cameras

Mr. Heady met with staff about the red light cameras and said that he is opposed to red light cameras. There recently was a Court decision that was not favorable and in addition to that the studies that he has seen from different States, as well as Florida, have all indicated that this is not a safety issue at all and that it is clearly a revenue issue that has backfired. He said the studies show that the severity of accidents has increased. He said that if there really is a problem that is serious in regards to red lights that the answer is to put a uniform officer in a patrol car to solve the problem. Then if that person continues to run red lights then they won't have a driver's license. He felt that they needed to stop moving forward on this until these Court cases have been settled. On this issue, same thing with the towing issue, these things were not initiated by the City Council. He asked where this whole red light issue came from.

Mr. Gabbard stated it came from the Chief of Police. He brought it before the City Council who approved it and entered into a contract. He agreed that there are still some concerns with the red light cameras. He reported a new case that recently came out of Broward County that may or may not have an impact on what they want to do. In Tallahassee there is talk about where this issue is going. He agreed that it didn't make a lot of sense to move forward if the Legislature changes things. The vendor that they entered into the contract with has been very cooperative and understands their situation. He said that if they move towards implementing this then he will advise Council.

Mr. Heady noted that when he looked at some of the intersections where they want to install the cameras he noticed that they were on County roads. He questioned why they were putting the cameras on County roads.

Mr. David Curry, Deputy Police Chief, explained that there are four streets being recommended where the red light cameras are to be installed and they are all at City intersections.

Mr. Coment added that the company will install the equipment on private property. He said the way they do it is they make agreements with the private property owners.

Mr. Daige acknowledged that he also met with staff concerning this matter. He said that the meeting was taped and the minutes are on file in the Clerk's office. He questioned what it would take if Council wishes to get out of this contract that they have entered into.

Mr. Vitunac suggested putting this on hold until after the Legislation has made a decision. If they choose to get out of the contract on their own then there will be monetary damages based on the amount of money that this company has spent on getting ready to put these cameras in.

Deputy Chief Curry added that the contract was signed in July 2009 and the company has no problem with waiting until after the Legislation has made their decision. He explained that if they were to tell the company that they could start installing the cameras today it would still take about three months before the project got started.

Mr. Coment added to what Mr. Vitunac just said about monetary damages. He said that this is a five year contract and the company could claim as damages what time and money was spent to install the equipment. They could also look at what would their profits be over the five year span.

Deputy Chief Curry wanted it understood that the company knows that they are totally on hold and they don't have a problem with that.

Mr. Heady felt that Mr. Daige has a good point. He asked staff if they could get the answer to his question.

Mr. Vitunac asked if Council wanted staff to do that now or wait until after the Legislation has made their decision.

Mayor Sawnick felt that staff should be given direction to find out where they are now (how much money has been spent up to this date).

Mr. Daige asked that since they are on hold, did staff notify this company in writing so that there will not be any more charges made.

Deputy Chief Curry said that they were not notified in writing, however they are willing to wait until the Legislative session is over.

Mr. Heady made a motion to go on hold. Mr. Daige seconded the motion.

Mr. White commented on how many times that this has gone before the Legislation and has failed.

Deputy Chief Curry reported that from what he has heard it sounds like this probably will pass this session.

Mr. White asked if we say we put it on hold officially, does that mean you would send them an official letter.

Mr. Vitunac explained that in the phone conversations that he had with the company he has asked them if they mind going on hold and he said verbally they have said that they don't have a problem.

Mayor Sawnick expressed that he was one hundred percent in favor of red light cameras. He asked Council if they wanted to put them (the company) officially on hold or just let it continue to be unofficially on hold. He restated the motion.

The motion failed 3-2 with Mr. Daige voting yes, Mr. Heady yes, Mr. White no, Mr. Abell no, and Mayor Sawnick no.

Mr. Heady brought up a letter that was from Mr. Daige, but was on the City Attorney's stationary. He said that when he first looked at the letter he thought that it was a memo from the City Attorney. He felt things would be clearer if the correct stationary was used in the future.

Councilmember Ken Daige's Matters

- 4. Correspondence**
- 5. Committee Reports**

Mr. Daige reported on the meetings, seminars and events that he attended (please see attached).

6. Comments

A) Economic Goals Summit

Mr. Daige felt that an Economic Goals meeting needed to be held as soon as possible. He wanted to bring one thing to Council's attention and that was the City of Sebastian's website. He said that they have an Economic Development Department. He also said that when they hold this meeting they will discuss what they can do to help their citizens. The meeting will be like holding one of their vision workshops. They will have an easel and a chalk board available to write down the different ideas that they come up with.

Mr. Abell expressed that there is a Community Leader Summit being sponsored by the Chamber of Commerce and will be held this Friday morning at the Richardson Center. He said that he spoke with the Director of the Chamber of Commerce this morning and she told him that no one, except for himself had responded from this Council that they would be attending the meeting.

B) City Council Workshop

Mr. Daige referred to the memo that they all received from Mr. White concerning having a workshop to discuss utility matters. He agreed with having this meeting, but would like to see it held as a Special Call meeting, but not have any votes taken at the meeting. He hoped that this meeting could occur as soon as possible.

Mayor Sawnick asked the Councilmembers to give any information that they would like to have discussed at this meeting to the Clerk so that she can compile all of the information together. He said one of the main things for the meeting will be discussion of the water, sewer, and electric rates.

Mr. White commented that after he sent out the memo, he talked to the City Manager and asked him to work on what staff could do to lower the utility rates for City customers.

Mr. Daige asked what kind of time frame they were looking at to hold this meeting.

Mr. Gabbard reported that they are looking at having their quarterly budget meeting on March 29th and then they could hold this Special Call meeting a couple of weeks after that meeting is held.

C) Discussion of County 6% Franchise Fee and City 10% Utility Tax

Mr. Daige stated that he wanted to suggest several topics to discuss which might lower the cost of their electric service for both in-City and out-City customers. He said first, the City Council might consider formally asking that Indian River County reduce or eliminate its 6% franchise fee on the out-City customers of their system. This would result in an immediate and significant reduction in their monthly bill. The second thing would be if the County chooses to keep its franchise fees, he would suggest that the City replace its 10% utility tax imposed on in-City customers with a 6% franchise fee identical to that charged by the County for the out-City customers. The result of this latter method would be that both in-City and out-City customers would pay exactly the same charge for the same service, making it clear that all customers of their electric system are treated the same, whether they are within the City boundaries or not. He asked Council to start thinking about these things and he does plan to bring this up again for Council to vote on. He expressed that their utility rates have to come down even more.

D) Utility Matters

Mr. Daige sent a memo to Mr. Lee asking him to provide copies of any wire transfers or any money being paid to OUC to provide services to the City beginning January 1, 2010. He said that this would apply to any wire transfers, wholesale bills, or any money being paid to FMPPA or any other power providers. This information was provided to Council by Mr. Lee.

11. ADJOURNMENT

Mayor Sawnick made a motion to adjourn today's meeting at 5:26 p.m. Mr. White seconded the motion and it passed unanimously.

/tv