

**CITY OF VERO BEACH, FLORIDA
APRIL 20, 2010 6:00 P.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

A G E N D A

1. CALL TO ORDER

- A. Roll Call
- B. Invocation – Pastor David Charlton/Living Lord Lutheran Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
 - 1. Toastmasters International Month – April 2010
 - 2. Earth Day – April 22, 2010
 - 3. Law Week – May 1, 2010 – May 7, 2010
- C. Public Comment
 - 1. Maria Kovachek and Daniel Fourmont to speak about Mainstreet
- D. Adoption of Consent Agenda
 - 1. Regular City Council Minutes – April 6, 2010
 - 2. Special Call City Council Minutes – March 29, 2010
 - 3. Habitat Cracker Hoedown
 - 4. Monthly Capital Projects' Status Reports

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

3. PUBLIC HEARINGS

- A) An Ordinance amending Chapter 2, Article VIII (Purchasing and Contracts) of the Code of Ordinances of the City of Vero Beach to replace Section 2-351(7), “Local Bidders,” with a New Section 2-352, “Local Preference in Purchasing or Contracting,” to provide for an expanded Local Preference Policy and Procedure for Local Businesses in City Purchases or Contracts; including Brevard, Indian River, Martin, Okeechobee, and St. Lucie Counties in the definition of “Local Business;” providing for severability; and providing for an Effective Date.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, repealing and replacing Resolution 2008-30, and amending The Veterans Memorial Island Sanctuary authorized uses and Memorials to add additional area immediately East of the Veterans Memorial Island Sanctuary to existing committee rules regarding Memorials and Plaques; providing for an Effective Date.

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, instituting a one hundred eighty (180) day Moratorium on the Issuance of Development Orders to Establish “Pain Clinics” or “Pain Management Clinics” within the City of Vero Beach to allow time for the City Staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an Effective Date.

6. CITY CLERK’S MATTERS

7. CITY MANAGER’S MATTERS

- A) Name Change of 14th Avenue to Main Street – Requested by Main Street Vero Beach
- B) Electric Utility Billing – John Lee

8. CITY ATTORNEY’S MATTERS

- A) Tolling Agreement for Certain Potential Bert Harris Act Lawsuits

9. CITY COUNCIL MATTERS

A. Old Business

1. Councilmember's time allotment under his/her matters – Requested by Mayor Sawnick
2. Items on agenda under New Business and Old Business – Requested by Mayor Sawnick
3. Discuss Efficiencies for Vero Beach Council Meetings – Requested by Vice Mayor Abell

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

1. Correspondence
2. Committee Reports
3. Comments

B. Vice Mayor Sabin Abell's Matters

1. Correspondence
2. Committee Reports
3. Comments

C. Councilmember Tom White's Matters

1. Correspondence
2. Committee Reports
3. Comments

D. Councilmember Brian Heady's Matters

1. Correspondence
2. Committee Reports
3. Comments

1. Date for presentation by Dr. Faherty and Glenn Heran
2. Date for joint City/County Meeting
3. Still waiting for written answers from City Manager
4. OUC Contract
5. 50 MM penalty
6. November Elections
7. Debate of Sale of Electric
8. 8/12/08
9. Direction City Manager selection process

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

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

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

COUNCIL AGENDA REPORT
MEETING OF APRIL 20, 2010

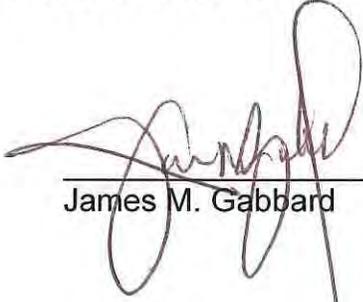
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: March 18, 2010

SUBJECT: HABITAT CRACKER HOEDOWN

Attached is a letter from Indian River Habitat for Humanity requesting permission to serve alcohol under a tent at the Habitat Cracker Hoedown in the large open field area on the west side of Riverside Park on November 13, 2010, as has been done in the past.



James M. Gabbard

JMG:jav
Attachment

xc: Rob Slezak

N:\AGENDA\CITYMANAGER\2010\HABITAT CRACKER HOEDOWN.DOC



March 13, 2010

James Gabbard, City Manager
1053 20th Place
Vero Beach, Florida 32960

*Joyce,
Have an next agenda -
Consent - for Consideration
by the City Council*

Dear Mr. Gabbard:

Indian River Habitat for Humanity is planning its annual major fund-raiser, the Habitat Cracker Hoedown, scheduled for the evening of Saturday, Nov. 13, 2010. We plan to have a maximum of 400 attendees. Indian River Habitat for Humanity is a non-profit ecumenical Christian ministry that works in partnership with people of all walks of life and faiths to build homes and communities with those in need. This event is essential in meeting the financial needs in order to continue our organization's mission.

We will be utilizing the large open field area on the west side of Riverside Park, just east of the restrooms, and have reserved this with the Recreation staff. We will set up a large tent under which we will have a band, dance floor, tables and chairs, a BBQ dinner, bar service, silent auction, mechanical bull and some game booths. We anticipate parking approximately 200-300 vehicles.

As we did last two years without incident, we would again like to serve alcohol at this event. We acknowledge a special exception from the City Council is required to serve alcohol. We will serve and contain the alcohol inside the enclosed tent and not allow our patrons outside the tent with the alcohol. We understand and agree to make every effort to control this activity as the City deems necessary, including the hiring of City police officers. We humbly request to appear before City Council at their regular scheduled meeting on Tuesday, April 20th, 2010.

Additionally, as we are a nonprofit, 501(C)3 organization, we respectfully request a waiver of any fees related to the use of this site. Habitat will, of course, be happy to provide any necessary documentation.

Feel free to contact me at 564-8050 or Mr. Bowler at 562-9860 X 208 if you have any questions or wish to discuss this further. We greatly appreciate your consideration in this matter.

Sincerely,

Dave Taylor, Hoedown Chairman

Andrew Bowler, President

Cc. Rob Slezak, Recreation Director
Tammy Vock, City Clerk



COUNCIL AGENDA REPORT
MEETING APRIL 20, 2010

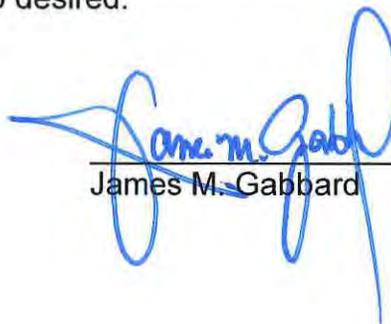
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: April 13, 2010

SUBJECT: MONTHLY CAPITAL PROJECTS' STATUS REPORTS

The Monthly Capital Projects' Status Reports are prepared and presented to Council at the second meeting of each month for all capital construction projects over \$100,000. They are for review and discussion, if so desired.



James M. Gabbard

:jav
Attachments

xc: Rob Bolton
Ericson Menger
Monte Falls
Jackie Mitts
Carol Shoaf

N:\Agenda\MONTHLY.RPT\report.cc.doc

CAPITAL PROJECTS REPORT – AIRPORT

FAA PAPI Test Project

In early April 2010, FAA personnel completed 4 weeks of ground and flight evaluations of LED-technology PAPI systems provided by 4 different commercial vendors. The primary evaluations were performed by FAA technical personnel and flight test aircrews. FAA is now conducting a comprehensive evaluation of the technical data and flight test results and will contact the Airport with further information later this year.

Obstruction Survey

On April 6, 2010, the Airport presented to City Council the results of the FAA-required Obstruction Survey (Phase 1). The Airport received approval from City Council to proceed to Phase 2 of the project, which will entail more detailed plans and specifications, and a recommendation for award to a contractor for obstruction removal (pending funding from FAA and FDOT later this year).

ARFF Vehicle

Airport and Indian River County firefighting staff visited the manufacturer for final inspection of the ARFF vehicle on March 29-30, 2010. Delivery of the vehicle is scheduled for the week of April 12th.

Rehabilitate Runway 11L/29R and Taxiway F

The City opened bids on March 16, 2010. Six bids were received with Ranger Construction Industries, Inc., submitting the low bid in the amount of \$1,938,527.82. Recommendation for award of the contract to Ranger was presented to City Council on April 6, 2010, and received approval. Construction will begin by May 2010.

Airport Operations Facility

This project is being reviewed by FDOT and Airport staff. Conceptual design work is complete, but no further work is anticipated until funding is offered by the Florida Department of Transportation and accepted by the City Council.

Rehabilitate Sections Runway 11R/29L and Taxiway C

On March 2, 2010, City Council accepted a Joint Participation Agreement, from FDOT for a portion of this project in the amount of \$144,000. Council also approved the airport consultant to furnish professional engineering services for the design phase of the project. Additional funding by FAA is anticipated this summer.

Updated 07 APR 2010

SR A1A LANDSCAPE IMPROVEMENTS FROM TULIP LANE TO PAINTED BUNTING LANE

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: H&D Construction Co., Inc.

PROJECT NO. 2002-12

For Period: 6/29/09 through 4/12/10

NOTES:

Median construction and landscaping is complete.

Punchlist and final clean-up under way.

*Contract time was temporarily stopped while waiting for FDOT approval of requested modifications.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$254,609.87	CONTRACT DATE:	06/15/09
CHANGE ORDERS TO DATE (TOTAL)	\$67,155.37	NOTICE TO PROCEED:	06/29/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$321,765.24	TIME OF COMPLETION	90 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$284,086.26	CONTRACT DAY:	
% OF WORK COMPLETE	88.29%	% OF CONTRACT TIME COMPLETE:	0.00%



19-Feb-10
Typical new landscaped median section



02-Mar-10
New median sections showing brick paver detail

18TH STREET PAVING, DRAINAGE & SIDEWALK IMPROVEMENTS COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: SPS Contracting., Inc.

PROJECT NO. 2004-11

For Period: 6/29/09 through 4/12/10

NOTES:

All construction items under the original contract with SPS Contracting, Inc. for drainage and paving improvements are complete.

All Change Order items, including sidewalk construction, for the contract with SPS Contracting, Inc. are complete.

Final Payment and project acceptance will be recommended are being recommended at the April 20, 2010 City Council meeting.

Amendment No. 3 to the CDBG grant has been requested to add funding left over from the street improvements to the park improvements for playground equipment and lighting.

A contract has been awarded to Korkat, Inc. for playground equipment installation and will be executed upon approval of said Amendment #3 by the Department of Community Affairs.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$411,057.25	CONTRACT DATE:	07/02/09
CHANGE ORDERS TO DATE (TOTAL)	\$190,192.48	NOTICE TO PROCEED:	07/13/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$601,249.73	TIME OF COMPLETION	224 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$601,249.73	CONTRACT DAY:	219
% OF WORK COMPLETE	100.00%	% OF CONTRACT TIME COMPLETE:	97.77%



29-Jan-10
New sidewalk on 19th street with ADA warning mat



29-Jan-10
New 19th Street sidewalk at 24th Avenue intersection

Bay Drive and River Drive Bridge Replacements

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: Misener Marine Construction, Inc.

PROJECT NO. 2005-24

For Period: 11/24/09 through 4/12/10

NOTES:

Northeast and southeast end bent caps for River Drive bridge are complete and deck slabs are in place.

Bay Drive utility relocation (water and electric) is complete.

Bay Drive traffic has been diverted to the new bridge section.

Bay Drive bridge demolition is complete.

River Drive utility relocation is underway.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$1,699,671.30	CONTRACT DATE:	09/18/09
CHANGE ORDERS TO DATE (TOTAL)	(\$48,059.50)	NOTICE TO PROCEED:	11/24/09
ADJUSTED CONTRACT AMOUNT TO DATE	\$1,651,611.80	TIME OF COMPLETION	90 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$892,917.68	CONTRACT DAY:	117
% OF WORK COMPLETE	54.06%	% OF CONTRACT TIME COMPLETE:	130.00%



29-Mar-10

River Drive retaining wall footer formed and ready for concrete



08-Apr-10

Traffic has been diverted onto the new bridge section on the Bay Drive bridge.

Royal Palm Sidewalk Construction

Prepared By:
 CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
 Constructed by COVB Staff

PROJECT NO. 2007-02

For Period: 2/15/10 through 4/12/10

NOTES:

Total length of sidewalk for this project is 7,640 linear feet.

Sidewalk has been constructed on the south side of Royal Palm Boulevard from Ponce de Leon Circle to Blue Heron Lane (approximately 3,300 linear feet).

This is an in-house project being constructed by COVB Public Works Department Crews

ORIGINAL BUDGET AMOUNT	\$334,873.60	Percent of Work Complete	40%



13-Apr-10

New sidewalk on Royal Palm Blvd. shifted around existing trees.



13-Apr-10

Sidewalk on Royal Palm Boulevard looking westward.

Humiston Park Stormwater System Improvements

Prepared By:

PROJECT NO. 2008-08

CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS

Contractor: Sunshine Land Design, Inc.

For Period: 1/04/10 through 4/12/10

NOTES:

Gravity outfall pipe has been grouted and abandoned.

Beach outfall has been 100% demolished and removed. The new outfall has been fully constructed

Pump station is 20% complete. The pump is due on site April 14, 2010.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$310,144.49	CONTRACT DATE:	12/18/09
CHANGE ORDERS TO DATE (TOTAL)		NOTICE TO PROCEED:	01/04/10
ADJUSTED CONTRACT AMOUNT TO DATE	\$310,144.49	TIME OF COMPLETION	45 Days
TOTAL COST OF WORK PERFORMED TO DATE	\$169,308.11	CONTRACT DAY:	98
% OF WORK COMPLETE	54.59%	% OF CONTRACT TIME COMPLETE:	108.89%



04/13/2010 - New outfall constructed with tideflex valve

**Florida Department of Transportation
Indian River Boulevard & Royal Palms Intersection**

Prepared By:
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS
Contractor: Community Asphalt Corp.

FDOT Project No. 403596-2-52.01
For Period: 1/04/10 through 4/12/10

NOTES:

This is an FDOT project and the information provided herein is intended specifically for the information of the City Council.

The contractor is proceeding with the widening of Royal Palm Place along the north side of the road, constructing curb and road base in the widening area.

Scheduled completion date is July 23, 2010, 7 weather days and a 10 day extension for Florida City Gas line relocation added to contract time.

THE FOLLOWING IS A SUMMARY OF COSTS TO DATE:		THE FOLLOWING IS SUMMARY OF PROGRESS TO DATE:	
ORIGINAL CONTRACT AMOUNT	\$834,374.68	CONTRACT DATE:	09/10/09
CHANGE ORDERS TO DATE (TOTAL)		NOTICE TO PROCEED:	02/01/10
ADJUSTED CONTRACT AMOUNT TO DATE	\$834,374.68	TIME OF COMPLETION	07/23/10
TOTAL COST OF WORK PERFORMED TO DATE	\$212,088.35	CONTRACT DAY:	71
% OF WORK COMPLETE	25.42%	% OF CONTRACT TIME COMPLETE:	43.56%



13-Apr-10

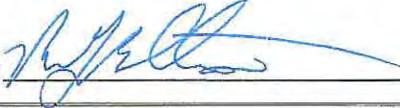


13-Apr-10

Former grassed median between Royal Palm Blvd & PI has been removed and drainage installation is in progress

WATER TREATMENT PLANT INJECTION WELL SYSTEM

STATUS REPORT AS OF 4/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By:	Jerry A. Gilbert, P.E.	PROJECT NO:	290-09/JV
Consultant:	ARCADIS US	FOR PERIOD:	3/1/10 - 4/1/10
Contract Date:	10/01/09		
Notice to Proceed Date:	10/07/09		
Time of Completion:	270 Calendar Days		
Substantial Completion Date:	06/04/10	Director's Signature	

PROJECT DESCRIPTION:

THE WORK TO BE PERFORMED UNDER THIS CONTRACT CONSISTS OF CONSTRUCTING ONE CLASS I INJECTION WELL THAT MAY BE PERMITTED TO ACCEPT AN INJECTION RATE OF 9.7 MILLION GALLONS PER DAY, ONE DUAL ZONE DEEP MONITOR WELL, AND REQUIRED OPERATIONAL TESTING.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	Youngquist Brothers, Inc.		
ORIGINAL CONTRACT AMOUNT	\$4,684,434.00		
CHANGE ORDERS TO DATE (APPROVED)	\$0.00		
ADJUSTED CONTRACT AMOUNT TO DATE	\$4,684,434.00		
TOTAL COST OF WORK PERFORMED TO DATE	\$1,761,382.00		
% OF WORK PAID	37.60%		
TOTAL WORK COMP.	\$1,585,243.80		



At the beginning of this month the FRP tubing installation in the deep injection well was completed to a depth of 2650 feet. Mid-month the drill rig was demobilized and relocated to the monitor well site, above left. Drilling has begun at the monitor well site and is currently at a depth of over 415 feet. Above right, the top of the completed deep injection well.

FORCE MAIN FROM WWTP TO WTP, & REUSE WATER MAIN FROM RPP TO COUNTRY CLUB DRIVE

STATUS REPORT AS OF 4/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By:	Jerry A. Gilbert, P.E.	PROJECT NO:	1483
Consultant:	Morgan & Associates	FOR PERIOD:	3/1/10 - 4/1/10
Contract Date:	11-Dec-09		
Notice to Proceed Date:	19-Jan-10		
Time of Completion:	270 Days		
Scheduled Completion Date:	15-Oct-10		

Director's Signature



PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction, startup and testing of a 24" PVC force main from the WWTP to the WTP, and a 24" PVC Reuse main from Royal Palm Point to Country Club Drive.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	S.P.S. Contracting, Inc.		
ORIGINAL CONTRACT AMOUNT	\$2,396,841.58		
CHANGE ORDERS TO DATE (TOTAL)	\$0.00		
ADJUSTED CONTRACT AMOUNT TO DATE	\$2,396,841.58		
TOTAL COST OF WORK PERFORMED TO DATE	\$1,303,323.72		
% OF WORK PAID	54.38%		
TOTAL WORK COMP.	\$1,172,991.35		



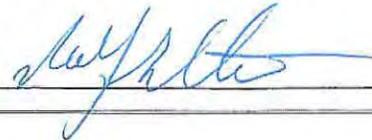
It was a contract requirement that the force main cross under U.S. 1 and the FECRR utilizing the jack and bore method of construction. Above are two views of the jacking pit, showing the jack and bore machine and the 42" diameter casing into which the 24" force main will be inserted. Note the extensive shoring required to protect the workmen and prevent a cave-in of the trench walls.

STORAGE RESERVOIR AND INJECTION WELL PUMP STATION

STATUS REPORT AS OF 4/1/10
CITY OF VERO BEACH WATER AND SEWER DEPARTMENT

Prepared By: Jerry A. Gilbert, P.E.
 Consultant: Arcadis, Inc.
 Contract Date: 30-Sep-2009
 Notice to Proceed Date: 13-Oct-2009
 Time of Completion: 395 Calendar Days
 Scheduled Completion Date: 12-Nov-2010

PROJECT NO: 280-09/JV
 FOR PERIOD: 3/1/10 - 4/1/10

Director's Signature 

PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction, startup and testing of a three million gallon pre-stressed concrete storage reservoir, injection well pump station and related appurtenances.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	Florida Design Contractors, Inc.		
ORIGINAL CONTRACT AMOUNT	\$2,694,375.00		
CHANGE ORDERS TO DATE (TOTAL)	\$763,461.00		
ADJUSTED CONTRACT AMOUNT TO DATE	\$3,457,836.00		
TOTAL COST OF WORK PERFORMED TO DATE	\$1,271,832.37		
% OF WORK PAID	36.78%		
TOTAL WORK COMP.	\$1,144,649.13		



The 3 MG water tank, above left, is being painted. The pumping station floor, placed last month, is now the scene of piping installation and pumps, above right. A second pump station, not shown, is under construction by this contractor at the wastewater treatment plant.

WATER TREATMENT MAINTENANCE BUILDING AND FIELD SERVICES COMPLEX

STATUS REPORT AS OF 4/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By:	Jerry A. Gilbert, P.E.	PROJECT NO:	150-09/JV
Consultant:	Edlund, Dritenbas, Binkley Architects	FOR PERIOD:	3/1/10 - 4/1/10
Contract Date:	08/19/09		
Notice to Proceed Date:	12/04/09		
Time of Completion:	300 Calendar Days		
Scheduled Completion Date:	09/30/10		

Director's Signature

PROJECT DESCRIPTION:

The Work to be performed under this Contract includes the furnishing of all labor, materials, equipment, services and incidentals for the construction of a Water Treatment Maintenance Building and Field Services Complex for the City of Vero Beach, Florida.

THE FOLLOWING IS A SUMMARY OF PROGRESS AND COSTS TO DATE:

DIVISION			
CONTRACTOR	Summit Construction Management, Inc.		
ORIGINAL CONTRACT AMOUNT	\$1,924,000.00		
CHANGE ORDERS TO DATE (TOTAL)	\$141,156.05		
ADJUSTED CONTRACT AMOUNT TO DATE	\$2,065,156.05		
TOTAL COST OF WORK PERFORMED TO DATE	\$611,500.00		
% OF WORK PAID	29.61%		
TOTAL WORK COMP.	\$550,350.00		



Above left, the maintenance building has more blockwork completed, as well as painting of the steel framing. Above right, the field services building has considerably more blockwork completed. In addition the site has been graded around the maintenance building.

3-A)

DEPARTMENTAL CORRESPONDENCE

TO: Jim Gabbard, City Manager
FROM: John O'Brien, Manager of Purchasing and Warehouse Operations ~~JOB~~ 4/9/10
SUBJECT: LOCAL PREFERENCE ORDINANCE – SECOND READING
DATE: April 9, 2010

Background:

City Council directed staff to adopt Indian River Counties local preference ordinance and staff prepared an ordinance for first reading with minor changes to comply with our purchasing policies. Since the first reading I have had time to review each counties local preference policies.

As a result, I found Indian River, Martin, St Lucie County and City of Vero Beach use the same methodology. If you meet the definition of "local" and your bid is within 5% of the "non-local" low bidder, you are afforded the opportunity to lower your price to meet lowest "non-local bidder." However, Okeechobee and Brevard County do not have the same definition of "local" or the same level of preference.

Okeechobee County provides 5% local preference to Okeechobee County bidders but does not include any other counties or cities. They are not reciprocating with anyone outside their county. As a result, if a City of Vero Beach contractor were low bid on an Okeechobee County bid and an Okeechobee County contractor was within 5% of the Vero Beach contractor, the Vero Beach contractor would be eliminated. However, if an Okeechobee contractor is low on a City of Vero Beach and a City of Vero Beach contractor is second low, the Okeechobee contractor would be awarded the City's bid since we consider him "local."

Brevard County provides a preference based on the following four categories:

- **Category 1** – contractor resides in Brevard County and 50% of his staff lives in Brevard County, as well. 5% preference bids under \$500,000, 3% preference for bids \$500,000 but less than \$1,000,000 and 2% preference for bids \$1,000,000 and greater.
- **Category 2** provides preference for all contractors located in the State of Florida and 50% of the staff is from Brevard County. 2 1/2% preference bids under \$500,000, 1 1/2% preference for bids between \$500,000 and \$999,999.99 and 1% preference for bids \$1,000,000 and greater.

- **Category 3** provides preference to any contractor in the state of Florida. 1 1/2% preference bids under \$500,000, 1% preference for bids between \$500,000 and \$999,999.99 and 1/2% preference for bids \$1,000,000 and greater.
- **Category 4** any business that is not in category 1, 2 or 3 (i.e. out of state) receive no preference.

The first two categories only favor Brevard County contractors and do nothing to help City of Vero Beach contractors. The third category provides a 1½% preference for bids under \$500,000, 1% preference for bids between \$500,000 and \$999,999.99 and a ½% preference for bids \$1,000,000 and greater. In theory, if you have a bid under \$500,000 in Brevard County and an out of state contractor as a low bidder, a Brevard county contractor within 4% of the low bidder and an City of Vero Beach contractor within 3% of the low, the Brevard contractor receives a larger preference than the City of Vero Beach and the Brevard contractor would receive the award. In a City of Vero Beach bid, Brevard County receives the same preference as a City of Vero Beach contractor.

Recommendation:

Based on my research recommend we remove Brevard County and Okeechobee County from our list of counties we define as "local." This change ensures the agencies listed as "local" are administering their local preference equitably. Failure to remove Okeechobee only hurts our local contractors and Brevard County's preference does more damage than good for our local contractor.

Request this information be place on the April 20, 2010 council agenda. Should you have any questions I can be reached at ext. 5471.

ORDINANCE NO. 2010- __

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VIII (PURCHASING AND CONTRACTS) OF THE CODE OF ORDINANCES OF THE CITY OF VERO BEACH TO REPLACE SECTION 2-351(7), "LOCAL BIDDERS," WITH A NEW SECTION 2-352, "LOCAL PREFERENCE IN PURCHASING OR CONTRACTING," TO PROVIDE FOR AN EXPANDED LOCAL PREFERENCE POLICY AND PROCEDURE FOR LOCAL BUSINESSES IN CITY PURCHASES OR CONTRACTS; INCLUDING BREVARD, INDIAN RIVER, MARTIN, OKEECHOBEE, AND ST. LUCIE COUNTIES IN THE DEFINITION OF "LOCAL BUSINESS;" PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Vero Beach, Florida, has adopted a Purchasing and Contracts Ordinance, codified in Chapter 2, Article VIII of the Code; and

WHEREAS, the City Council desires to amend the Purchasing and Contracts Ordinance to include a local preference policy and procedure to provide locally-owned and operated companies preference in City of Vero Beach procurement, as set forth herein; and

WHEREAS, the City Council finds that policies that encourage local business and the hiring of local residents as employees help strengthen the local economy; and

WHEREAS, the City Council determines that it is in the best economic interests of the City's residents and businesses to return funds to the local economy, while ensuring fair competition and securing competitive pricing for purchasing and contracting;

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

Section 1 – Amendment of Chapter 2, Article VIII, Division 2, Purchasing Procedure.

Chapter 2, Article VIII, Division 2, Purchasing Procedure, is hereby amended to delete paragraph 7 of Section 2-351, Bidding Procedures, and to create a new section 2-352, Local Preference in Purchasing or Contracting, to read as follows:

Chapter 2, Article VIII, Division 2, Section 2-351, Bidding Procedures

Section 2-351. Bidding Procedures:

(7) ~~Local bidders. Local bidders may be accorded a preference by the city council if it deems it in the public interest. The city manager shall have this same authority with respect to bids for contracts under \$50,000.00.~~

Section 2-352. Local Preference in Purchasing or Contracting.

A. Definitions.

(1) “Local business” shall mean a business that meets all of the following criteria:

(a) Has had a staffed and fixed office or distribution point, with a verifiable street address, located within Brevard, Indian River, Martin, Okeechobee, or St. Lucie Counties for at least one (1) full calendar year immediately prior to the issuance of the request for competitive bids or request for proposals by the City. Post office boxes shall not be used or considered for the purpose of establishing a physical address; and

(b) Has had, for at least 12 months immediately prior to the date of the advertisement for the particular good or service being solicited, a current “Local Business Tax Receipt” issued by the City of Vero Beach, Brevard, Indian River, Martin, Okeechobee, or St. Lucie Counties, if applicable; and

(c) Holds any license or competency card required by Indian River County, if applicable, and;

(d) If the contract is awarded, will be the person or entity in direct privity of contract with the City of Vero Beach and not as subcontractor, or any lower-tier subcontractor, materialman, or supplier.

(2) “Non-local business” means a bidder that is not a local business, as defined herein.

B. Certification.

Any person or entity claiming to be a local business, as defined herein, and desiring to receive local preference, shall complete and submit, together with all required attachments, a “Local Business Certification Form,” in the form provided by the City and contained within the bid package accompanying a public notice/advertisement. Any bidder who fails to complete and submit the “Local Business Certification Form” together with all required attachments with the bid shall not be

granted local preference consideration for the purposes of that specific contract award. The Purchasing Division shall determine if a person or entity meets the definition of a "local business."

C. Local preference in purchases by means of formal competitive bid.

In connection with any solicitation to which this Ordinance applies, local preference may be given to local businesses in the following manner:

1. When a qualified and responsive, non-local business submits the lowest price bid (herein, "Apparent Low Bidder"), and the bid submitted by one or more qualified and responsive local businesses is equal to or within five percent (5%) of the price submitted by the Apparent Low Bidder, then the local business with the apparent next-lowest qualified and responsive bid offer (herein, the "Lowest Local Bidder") shall have the opportunity to submit an offer to match the price(s) offered by the Apparent Low Bidder as follows:

(a) The Purchasing Division shall invite, in writing, by e-mail, fax, or certified mail, the Lowest Local Bidder to submit a written matching offer to the Purchasing Division (herein "Invitation");

(b) The Lowest Local Bidder may, but shall not be obligated to, submit a written, faxed or e-mailed matching offer to the Purchasing Department within five (5) business days after receipt of the Invitation;

(c) If the Lowest Local Bidder submits a written offer that matches the bid from the Apparent Low Bidder, such written offer shall be accepted and the Lowest Local Bidder shall be awarded the contract;

(d) If the Lowest Local Bidder submits a written offer that does not match the bid from the Apparent Low Bidder, such written offer shall be rejected; and

(e) Thereupon, the next successive lowest qualified and responsive local bidder, if and only if its bid is less than or within five percent (5%) of the Apparent Low Bidder, will receive the Invitation.

(f) This cycle shall be repeated until there are no remaining local bidders less than or within five percent (5%), then the award shall be made to the Apparent Low Bidder

2. If the Lowest Local Bidder and successive next lowest local bidders do not respond, decline, or are unable to match the Apparent Low Bidder bid price(s), then the award will be made to the Apparent Low Bidder.

D. Notice.

All solicitations that are subject to this Ordinance shall include the substance of this local preference Ordinance and the "Local Business Certification Form".

E. Exclusions and limitations.

1. Waiver of local preference.

The application of this Ordinance to a particular purchase or contract of the City of Vero Beach may be waived only prior to bid solicitation/advertisement and with the approval of the City Council.

2. The provisions of this Ordinance shall not apply where prohibited by federal law or Florida law, or under the conditions of any grant or other funding source.

3. The provisions of this Ordinance shall not apply to contracts under the Consultants Competitive Negotiation Act (CCNA), Florida Statutes Section 287.055, as CCNA allows consideration of location in the evaluative process.

4. The provisions of this Ordinance shall not apply to any procurement where the local nature of a business has been addressed through scoring criteria.

5. The Purchasing Division shall be responsible for developing, implementing, and maintaining administrative procedures in support of this policy.

E. Subsequent review and sunset provision.

On or about six months after the Effective Date of this Ordinance, the Purchasing Division will provide the City Council with the results to date of this local preference policy and the status of regional reciprocity for Indian River County businesses by Brevard, Martin, Okeechobee, and St. Lucie Counties. Within one year after the first bid awarded under this policy, the City Council shall receive a similar report from the Purchasing Division and shall determine whether to continue or modify this policy. Nothing in this section shall prevent the City Council from taking action sooner to revise or remove this local preference policy.

Section 2. Conflict and severability. In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this article is held to be invalid, unconstitutional, or unenforceable for any reason by a

court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this article, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date. This Ordinance shall become effective upon final adoption by the City Council.

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

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

ATTEST:

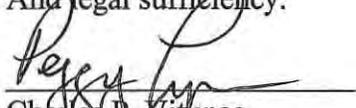
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

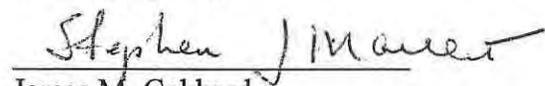
Kevin Sawnick
Mayor

Approved as to form
And legal sufficiency:

Approved as conforming to
municipal policy:

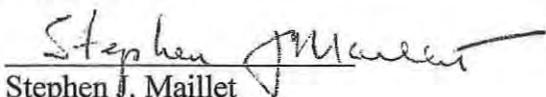
sm


Charles P. Vitunac
City Attorney



James M. Gabbard
for City Manager
03/25/10

Approved as to technical
requirements:



Stephen J. Maillet
Finance Director

CITY OF VERO BEACH, FLORIDA
APRIL 20, 2010 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

Pastor David Charlton of Living Lord Lutheran Church gave the invocation.

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

The Clerk requested that item 4-A) be pulled and heard at their next meeting and that items 7-A) and 2C-1) be heard together. She said that item 2C-1) was sponsored by Councilmember Daige.

Mr. White wanted to discuss under his matters, Committee meetings.

Mr. Heady wanted to have some discussion on item 4-A) so that these changes can be made before it comes back to Council on May 4, 2010.

Mrs. Vock asked that under item 7-B), they also include discussion on setting a joint meeting with the County concerning the Electric System Franchise.

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

B. Proclamations

- 1. Toastmasters International Month – April 2010**
- 2. Earth Day – April 22, 2010**
- 3. Law Week – May 1, 2010 – May 7, 2010**

Mayor Sawnick read and presented all of the Proclamations.

C. Public Comment

1. Maria Kovachek and Daniel Fourmont to speak about Mainstreet – Sponsored by Councilmember Daige

Mr. Daniel Fourmont thanked Council for allowing them to speak at their meeting tonight. He said that Mrs. Kovachek would be covering her six month report and he was here to go over the recent Hibiscus Festival which was a very successful event.

Mrs. Maria Kovachek, Main Street Manager, talked about the goals they have for this year. She said that they will continue to host the events that they have been doing, which include the Hibiscus Festival, Downtown Fridays, the Dinner Dining Strolls and their weekly Farmers Market held on Friday mornings. She expressed that they have just completed a downtown walking map (available in the City Hall Lobby). They are talking about putting some new road signage in the downtown area that will give it more charm. They want to establish the DDD district (Dining Downtown District) and are looking at the possibility of putting a permanent stage outside the Heritage Center. She said that they stay very involved with the downtown businesses and property owners. She asked the City to consider revisiting discussions of CRA's. One of their thoughts involved with renaming 14th Avenue is because just about every downtown has a Main Street. This name would give a new look and vantage point for people who want to come downtown.

Mr. Peter Jones was also at tonight's Council meeting on behalf of downtown. He said that he has been heading up the Task Force of volunteers with a goal of reopening the Theater located downtown. He said that there have been attempts before to try to make this happen and they have learned from that process. The Task Force knows what is necessary for this to happen. He said that there needs to be a good operation for opening, improvements made and a business plan. They are in the process of putting this business plan together and then plan on meeting with Mr. Bob Brackett hopefully in the next two months.

Mr. Daige asked as far as renaming 14th Avenue, how close are they to renaming it and where do you want them to go as a Council.

Mr. Fourmont felt that it was an idea that needs to be pursued. The original name was Davenport on that street and then in 1913 it was renamed Seminole Street. They think at this point it should be renamed Main Street. He said that the Theater is there, it is a busy street, and Main Street would fit the description of this street.

Mr. Daige asked if it was the consensus that the group was happy with Main Street being the new name for the street. He was told that they are.

Mayor Sawnick asked if there was anyone from the public who wished to talk about renaming 14th Avenue to Main Street. No one wished to speak on this matter.

Mr. Jim Gabbard, City Manager, asked for clarification as to how far they want the street to go. He was told from the Train Station all the way to 16th Street.

Mayor Sawnick explained the street name (14th Avenue) will always remain 14th Avenue, with the addition of new name, because of emergency services.

Mr. Gabbard agreed and said that they could adjust the signs and make the additional name (adding Main Street) just like they did with renaming the other street downtown Don Smith Avenue.

Mayor Sawnick made a motion to rename 14th Avenue to Main Street. Mr. Daige seconded the motion.

Mr. White brought up that most GPS systems are geared for 14th Avenue. He asked if the signs will have both names on them.

Mr. Gabbard said that they would. He suggested putting 14th Avenue on the top of the sign and Main Street on the bottom of the sign.

Mr. Heady felt that the motion should read to add the name of Main Street to 14th Avenue instead of renaming the street Main Street. Mayor Sawnick agreed and amended his motion and Mr. Daige seconded the amendment. The motion passed unanimously.

Dr. Steven Faherty read a prepared statement (please see attached).

Mr. White told Dr. Faherty that he did not object to the bill that Representative Mayfield was proposing requiring that they be under the Public Service Commission (PSC), because they already do that voluntarily. What he did have a problem with is if it had passed that 35 other cities might have been affected. He then spoke on the recent Tallahassee trip where Mayor Sawnick, Mr. Abell, Mr. Daige, Mr. Gabbard and Mr. Vitunac went on. He said that these gentlemen went up there with no intentions of speaking on the electric. He said their travel expenses were not paid out of the electric fund. He felt a little biased when you (Dr. Faherty) talks, he comes across like they are a bunch of crooks. He said that each Councilmember lives in the City and pays City taxes and utilities. They have done away with the 10% surcharge for out of City residents that was once charged to their electric bills. Also, this Council and City staff will listen if someone calls them. He recalled a situation where someone living in Dr. Faherty's neighborhood, called him while he was Mayor and told him that he had no electricity. Mr. White made a few calls to the City and the electricity was turned back on in a short amount of time. He felt that if that person had FP&L for their utility provider that would not have happened so quickly.

Mr. Heady said that the City reimbursed his mileage when he visited OUC in Orlando. He requested that the City Manager put on the next agenda discussion of Florida League of Cities (FLOC) and Florida Municipal Power Association (FMPA) dues. He was told that the dues for both of these organizations has already been paid for this year.

Mr. Daige commented that they went to Tallahassee and carried a packet of information, which is on file in the Clerk's office and anyone can receive a copy of it. He reported on the trip at the last meeting and it is attached to the April 6, 2010 minutes. He said that the City Attorney and the City Manager could provide the names of each of the representatives that they spoke to while they were in Tallahassee.

Mr. Abell stated that Dr. Faherty continues to make statements that are incorrect. He said while they were in Tallahassee they did not discuss anything to do with the bill that Representative Mayfield was proposing. He mentioned that the number of utility customers that the City has, has been explained to him. When they went to Tallahassee the City Manager rented a car which they all drove to Tallahassee in which they knew was cheaper than if each of them was to drive their own car and have the City reimburse them at .50 per mile. As far as the Finance Commission and Utilities Commission's not having meetings, they only meet when necessary and if they have something on their agenda to talk about. He brought up the prospect of having a Utilities Authority and said that there were several meetings held over a three month time frame and what came out of those meetings was that the utility rates would go up if they had an Authority. There was no interest expressed that they would benefit by having a Utilities Authority.

Dr. Faherty requested to respond to Mr. Abell's comments. Mayor Sawnick did not allow him to speak at this time. Mr. Heady asked the Mayor to allow Dr. Faherty to speak because he thought that it would be efficient use of time to allow the exchange at this time. Mayor Sawnick did not allow it.

Mr. Robert Walsh said that of everyone sitting on this Council there is only one Councilmember who has been digging into the mess that this Council inherited. He does not agree with limiting the public to only being allowed to speak for three minutes.

Mr. Ted Gordon told the Council that they (Council) could not continue to operate the way that they are. He directed his comments also to Mr. Heady and said that they (council) literally have to work as a team. He said go read the book how to win and influence people, how to work with each other. He said that these people (Council) dedicate a lot of their time on our behalf and he thinks that they are doing a pretty good job. He said sure he has some reservations about some of the things that have been done, but by golly they spent a lot of time up here (dais) and he doesn't think that they demand the abuse that they have been receiving.

Mr. J. Rock Tonkel wanted to deal with the issue of the request for a joint workshop meeting between the City and the County. He said that the County Commission sent a letter to the Mayor requesting this workshop. He read parts of the letter and encouraged Council to enter into this discussion, in good faith and have further conversation with

interested citizens. He requested a copy of any response that the City sends to the County Commission. He brought up the County Commission meetings and noted that there is a different environment in the County then here in the City. The County encourages conversation and debate. He said that the Councilmembers are important role models for this community and he pleaded with them to forget about time limitations because it will help get the business that needs to be done with the help of the public.

Mr. Heady made a motion to have the workshop that Mr. Tonkel is suggesting.

Mayor Sawnick said that item will be discussed under City Manager's Matters.

The motion died for lack of a second.

Mr. Joseph Guffanti stated that tonight they were going to watch the presentation that Mr. Gabbard made to the County Commission back in 2008 (item is 10-D8 under Mr. Heady's matters). He said that when they watch it that they need to pay attention to the aura of urgency that Mr. Gabbard expresses and the danger that he portrays that the City of Vero Beach was in because someone contacted him about the position of the City's bonds. What concerns him at the moment is the recent memo signed by the City Manager to Mr. Heady, which states that he checked his files and found no written documents made concerning his comments. He couldn't believe that when someone makes such a statement on an important issue that there is no backup material available. He told Council to also notice the usage of the word "settle" in the video and all of them should wonder what context that word is made and where he (Mr. Gabbard) got it from. He then made some comments referring to the memo that Mr. Abell had on the agenda regarding the efficiencies of running a Council meeting.

Mr. M.J. Wicker stated that several weeks ago he approached Mr. Gabbard about the possibility of reopening the Dodgertown golf course. He has explored a number of different avenues and he has provided Mr. Gabbard with a memo hoping to get a letter of intent in pursuing this opportunity to open the golf course back up. It is not so much about the money as offering the community an affordable option of recreation.

Mr. Gabbard explained that there are two potential proposals being offered to restore the golf course. One is from Mr. Wicker and the other is from the Wadsworth Foundation. Also, Mr. Craig Callan, with MiLB, has expressed an interest for the land to use for some more ball fields. Staff will put out a bid for proposal, which will outline the rules on what the City expects and bring these things back to Council to see if they want to take any of these different parties up on an offer. He also will give a more in depth report at their next meeting.

Mr. Daige asked Mr. Gabbard if that gives him enough time to get the paper work out to these different individuals.

Mr. Gabbard answered yes. He said that he would try to get the RFP out by next week so Council has time to look at it.

Mr. Daige commented that Council has always been open to allow people to speak. The only thing that he would ask is that people be civil. He said that right now there is no time limit for people coming up to express themselves.

Mr. Heady returned back to the discussion of the golf course and commented that the idea to send out an RFP is nice, but what you do when you do that is limit the proposal that you are going to get back by statements in your request. He said if there are a couple of entities who are interested in doing this then why don't we ask them to give us their proposal. He said let them send to us what they propose.

Mr. Gabbard explained that these interested parties have a number of questions as to what the City expects from them.

Mr. Heady asked Mr. Gabbard to send him a list of questions that these parties have.

Mr. Gabbard said that as for the Wadsworth Foundation, all he has is some information as to what they have done in the past. He will make sure that Council is informed as they move forward on this and that they are involved in the decision.

Mr. Wicker said that of course the most important thing for him is what it is going to cost. He wants people to be able to play golf at an affordable rate and hopes to charge the same fee that was in place when the golf course closed.

Mayor Sawnick was confident that the process they will be going through is the right way.

Mr. Gabbard indicated that a meeting has been scheduled with County staff to talk about the golf course and to make sure that MILB is taken care of.

Mr. Heady requested Mr. Gabbard to give him any information that he has. He was concerned on how much money they spend and before spending any money on RFP's that he wants to see what staff has in mind.

Mr. Gabbard will provide Mr. Heady a copy of the 2007 RFP.

D. Adoption of Consent Agenda

Mr. Daige pulled items 2D-1) and 2D-4) off of the consent agenda.

Mr. Heady pulled items 2D-3) and 2D-4) off of the consent agenda.

Mr. White made a motion to approve item 2D-2) on the consent agenda. Mayor Sawnick seconded the motion and it passed unanimously.

1. Regular City Council Minutes – April 6, 2010

Mr. Daige made it clear that the minutes were accurate, he just wanted to point out on Page 10, Paragraph 8, where Mr. McGarry states that the Ordinance (amending Chapter 30, Alcoholic Beverages) preempts home rule. He has a problem with the Ordinance if it preempts home rule and doesn't want to see that in the Ordinance. He will be sending Council some information on this.

Mr. White made a motion to approve the April 6, 2010 minutes. Mr. Daige seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – March 29, 2010

These minutes were approved under the consent agenda.

3. Habitat Cracker Hoedown

Mr. Heady referred to the memo that they received on this request and noted that the Chairman requested to appear before City Council and tell them about the event. He asked that this be done.

Mr. David Taylor, Hoedown Chairman, reported that this is the annual major fundraiser that Indian River Habitat has. They will be having a dinner, bar service, silent auction, there will be a mechanical bull and some game booths. The event will be held at Riverside Park, the same place where it has been held for the last two years. He said they are charging \$75.00 per person for the event.

Mayor Sawnick made a motion to approve the request from Indian River Habitat for Humanity. Mr. Daige seconded the motion and it passed unanimously.

4. Monthly Capital Projects' Status Reports

Mr. Daige asked that in the future that the pages be numbered in the Monthly Status Report. He had a question for the Water and Sewer Director, where it states change order to date. He wanted to know what the revenue source was for that amount of money, where the money is coming from, and did he receive grant money.

Mr. Rob Bolton, Water and Sewer Director, explained that the change order was approved by Council months ago. He went over the reason for the change order and explained that the funding for this project was coming from the SRF loan funding program at a low interest rate.

Mr. Heady had a question on this same page. He asked if the City decides to join the County in respect to water and wastewater, would this project even be needed.

Mr. Bolton said that the County's interest in joining on the wastewater end of things would be much more expensive than this. He said by completing this project, it gets the City through all of their DEP regulations that they have certain consent orders on that

they would no longer send any water into the lagoon. He said recently there have been new future regulations that have come out and by doing this they have met all of these new regulations.

Mr. Heady commented that it just seems to him that they continue to spend a ton of money on water and sewer and at the same time they have questions as to whether or not they are going to have the customer base that they currently have and whether or not it is in the taxpayers interest to join forces with the County.

Mr. Bolton said that they were required to spend these dollars by a time given. They were under a consent order, as of January 2009, to have everything in place by eighteen months and that will be done.

Mr. Heady referred to the State Road A-1-A landscape improvements. He asked if there were any estimates to when the sidewalks would be completed.

Mr. Monte Falls, Public Work's Director, stated that they are 99% complete.

Mr. Heady then referred to the Bay Drive and River Drive Bridge Replacements and asked why it has taken so much time to get this project completed.

Mr. Falls explained that they needed to make a change in the way that the utilities were located and it took them an additional twenty days in order to get the necessary permits.

Mr. Heady made a motion to accept the Monthly Capital Projects' Status Report. Mayor Sawnick seconded the motion and it passed unanimously.

Council took a five-minute break at 7:33 p.m.

3. PUBLIC HEARINGS

- A) An Ordinance amending Chapter 2, Article VIII (Purchasing and Contracts) of the Code of Ordinances of the City of Vero Beach to replace Section 2-351(7), "Local Bidders," with a New Section 2-352, "Local Preference in Purchasing or Contracting," to provide for an expanded Local Preference Policy and Procedure for Local Businesses in City Purchases or Contracts; including Brevard, Indian River, Martin, Okeechobee, and St. Lucie Counties in the definition of "Local Business;" providing for severability; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. John O'Brien, Manager of Purchasing, provided backup material suggesting that they remove Brevard and Okeechobee County from this Ordinance.

Mr. White asked if they do that, could they still pass this Ordinance tonight. He was told that they could make an amendment to the Ordinance and still approve it tonight. He then asked Mr. O'Brien to explain why he wants to remove these two Counties.

Mr. O'Brien explained that Okeechobee County provides 5% local preference to Okeechobee County bidders, but does not include any other counties or cities. As a result, if a City of Vero Beach contractor was the low bidder on an Okeechobee County bid and an Okeechobee County contractor was within 5% of the Vero Beach contractor, the Vero Beach contractor would be eliminated. However, if an Okeechobee contractor is low on a City of Vero Beach bid and a City of Vero Beach contractor is the second lowest, the Okeechobee contractor would be awarded the City's bid since we consider him local. He said with Brevard County there are four categories to consider, so if you have a bid under \$500,000 in Brevard County and an out of State contractor is a low bidder, a Brevard County contractor within 4% of the low bidder and a City of Vero Beach contractor within 3% of the low bid, the Brevard contractor would receive the award. In a City of Vero Beach bid, Brevard County receives the same preference as a City of Vero Beach contractor.

Mayor Sawnick opened and closed the public hearing at 7:45 p.m., with no one wishing to be heard.

Mr. Daige agreed that both Counties should be removed from the Ordinance.

Mayor Sawnick also agreed and added that they could always add them back in the future.

Mayor Sawnick made a motion to remove Okeechobee and Brevard County from this Ordinance. Mr. White seconded the motion and it passed unanimously.

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

Mr. Heady commented that he has fought for local preference for a long time and this Ordinance will allow the City to award bids based on local preference. He read the existing law that is being removed. The new law is five pages, which is a lot of work on staff to have to add all that new language. He said that they should be finding ways to reduce laws and not to enlarge them. He would urge Council to stick with the current law.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, repealing and replacing Resolution 2008-30, and amending The Veterans Memorial Island Sanctuary**

authorized uses and Memorials to add additional area immediately East of the Veterans Memorial Island Sanctuary to existing committee rules regarding Memorials and Plaques; providing for an Effective Date.

This Resolution was pulled off of the agenda and will be heard at the May 4, 2010, City Council meeting.

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, instituting a one hundred eighty (180) day Moratorium on the Issuance of Development Orders to Establish “Pain Clinics” or “Pain Management Clinics” within the City of Vero Beach to allow time for the City Staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, stated that Council directed staff to establish a 180 day moratorium on the issuance of development orders pertaining to the establishment of pain clinics and pain management clinics in the City of Vero Beach. The Ordinance is based on similar Ordinances enacted by local governments in Broward, Martin, and Palm Beach Counties. The Ordinance is intended to prevent such clinics from being established in the City of Vero Beach until such time that staff reviews the possible measures for regulating these clinics and prepares the appropriate regulations for consideration by Council. He told Council that they should be aware that Senate Bill 2272 is currently moving through the Florida Legislature, which may place additional regulatory and reporting requirements on such clinics.

Mr. Charles Vitunac, City Attorney, told Council that since the law does not favor moratoriums and the Legislature will have acted on it in the next several weeks, they felt that six months was sufficient and if it is not done they can ask for an extension. He said that it is easier for them to defend, if challenged, if the moratorium was for a shorter period such as six months.

Mayor Sawnick made a motion to approve the Ordinance on first reading and to set the first public hearing for May 18, 2010. Mr. Daige seconded the motion.

Mr. Daige was in agreement with extending the moratorium if they needed to.

Mr. White wondered if they should put in the Ordinance that the 180 days can be extended by the will of the Council.

Mr. McGarry said they could have put that in the Ordinance but felt that the shorter the moratorium the more defensible it is. He hopes that the Florida Legislature will enforce some rules that will take care of this problem.

Mr. Abell referred to Page 3, Paragraph 2, Section C, and said that he thought that there were some words that need to be changed. Staff agreed that the word “is” needed to be inserted between the words “who and a.”

Mr. Heady made it clear that when he brought this matter up at their last meeting, what he wanted to do was make a motion for Council to approve a moratorium, but not have the legal staff have to draw up this five page document. All that was needed for staff was direction from the Council that they not be allowed to issue any permits for pain clinics and that is all it would take.

Mr. Abell explained that Council is a little gun shy because they recently had an issue and an Ordinance in place where someone couldn't understand where he lived. So they are trying to make their Ordinances more specific.

Mr. Heady has found that when government tries to identify every specific item that may come up in the future, that the only thing they do is open up more loop holes. He understands Mr Abell's point about the election law and thought that it was clear. He just thinks that they need to stop making needless work for themselves.

Mr. Vitunac explained that the reason they did this was because they will win in court this way and if they did it the way he suggested they would probably lose.

Mr. Heady told Mr. Vitunac that he has not had a good track record of telling them when they will win in court or not win. He said that the City spent millions of dollars based on his advise that they would win and they did not. He said the reality is you don't know who will win or who will not win in court. He said that if someone came to them and asked for a permit and they were turned down by the City, the State Legislature will have made up their mind before the issue could even get to court.

The Clerk polled the Council on 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) Name Change of 14th Avenue to Main Street – Requested by Main Street Vero Beach

This item was heard earlier in the meeting.

B) Electric Utility Billing – John Lee

Mr. John Lee, Acting Electric Utilities Director, commented that if you mention electric utilities in this town you get some strong emotional responses. He said tonight he wanted to present some facts to the public and Council. He provided them with a copy of a utility bill and explained everything on the bill line by line (please see attached). He also went through Bulk Power Cost, Lowest to Highest Residential Bill Comparison, March 2010, and the Electric Rate Comparison – March 2010.

Mayor Sawnick suggested waiting until after they have received some comments back from FP&L before setting a joint meeting with the County.

Mr. White expressed that citizens don't understand what Bulk Power Cost means. He suggested putting Fuel Cost in place of Bulk Power Cost.

Mr. Lee explained that customers tend to tie fuel cost in with the price of gas that they purchased at the gas station, which is why he doesn't agree with putting "Fuel Cost" in place of "Bulk Power Cost."

Mr. Daige mentioned to Mr. Lee that he talked about FP&L base rate. He said that it was his understanding that this base rate is not the same throughout the State of Florida.

Mr. Lee said that they may have some different franchise agreements here and there, but their base rate is their base rate.

Mr. Daige complimented Mr. Lee on explaining Bulk Rate and felt that some explanation should be on the bills so the public understands what it means. He expressed that he still wants to see the utility bills continue to go lower. He said if they need to bring this suggestion back up at their next meeting, he would be happy to do that.

Mr. Lee said that he would rather not put the explanation on the bill, but could put in some sort of generic insert.

Mayor Sawnick suggested because this will cost money that they wait until their next meeting and discuss this in more detail.

Mr. Daige had no problem with just typing something on the bill.

Mr. Lee went over what has to be done to change anything on the bill and said it is easier to put an insert in the envelope along with the bill.

Mayor Sawnick asked Mr. Lee to bring this back to them at their next meeting for further discussion.

Mr. Heady has heard over and over from the City Manager that they have lost the public relations war, which is one of the reasons to have this joint meeting with the County. He agrees that there will be certain areas that will not be discussed because of negotiations with FP&L. However, for them to not be at that meeting just will further damage the Council and damage the utilities and what they need to do at this time is be as open and transparent as possible. He reiterated that it was important for them to consider the County's request in holding a joint meeting and agree to set a date. He made that in the form of a motion.

Mayor Sawnick suggested that they put this item on their next meeting under New Business.

Mr. White asked that if there is going to be a joint meeting, will the County pay for Sue Hersey and R.B. Sloan to attend the meeting.

Mr. Heady told Mr. White that no one has asked for them to be at that meeting.

Mr. White felt that these individuals needed to be at that meeting because they have the knowledge to answer questions and making sure that the facts and truths come out. He felt that if they were going to agree to this meeting, then it needed to be done the right way.

Mr. Daige would like to see this item on their next agenda under City Manager's Matters. The City Manager did not have a problem with this item being placed under his matters.

The motion died for lack of a second.

Mr. Abell added that anything discussed at this meeting needs to be carefully considered because they are in a situation right now where they are waiting to see if anyone is interested in buying the system.

Mr. White suggested sending a copy of DVD of the meeting where they discussed utilities where both Mrs. Hersey and Mr. Sloan were present over to the County for them to review.

C) Veterans Memorial Island Sanctuary Resolution

Mr. Heady referred to the map that was provided along with the Resolution. He pointed to some additional area, which will be included under the Veterans Memorial Island Sanctuary Committee's control. He said if you look at the square it encompasses the road. So what they would be doing is putting a road under the care, control, and custody of this Committee. This would mean that they would be prohibiting bikes from entering the roadway. He suggested when this Resolution is heard at their next meeting that the center island be included, but that they exclude the road.

Mr. Vitunac stated that he would pass this along to Mrs. Helen Glenn, Chairman of the Committee.

8. CITY ATTORNEY'S MATTERS

A) Tolling Agreement for Certain Potential Bert Harris Act Lawsuits

Mr. Vitunac explained that Michael O'Haire is the attorney for several property owners who own land along A-1-A and who claim that they have causes of action against the City based on their inability to develop the land because of traffic concurrency issues. The Planning Director is working on amendments to the City's Comprehensive Land Use Plan, which would resolve these issues. The problem is that the amendments would not be adopted until this summer and some of Mr. O'Haire's claims by then will have expired (statutes of limitations run out). Mr. O'Haire has proposed a solution, which has his clients and the City entering into a "tolling agreement" so that the statute of limitations will not run during the period from the date of signing this agreement until the date either party exits the agreement. Then if the City Comprehensive Plan amendments are passed, the issues would be resolved. However, if the amendments don't pass then the City would exit the agreement and his clients could pursue what rights that they have. The benefit of this agreement is that it makes it unnecessary to file lawsuits to achieve the same result.

Mr. Heady made a motion to approve the Tolling Agreement. Mayor Sawnick seconded the motion.

Mr. White wanted to hear from Mr. McGarry on the concurrency. He noted that they entered in conjunction with the County on a volunteer concurrency as a test for the State. The State had come and offered to widen A-1-A however the residents and property owners did not want it widened so it has remained two lanes. He said either they go by the rules that are set or they do away with concurrency.

Mr. McGarry explained that they are required under Florida Statutes that under their comp plan, that they have set up a concurrency mechanism. He said that all of their roads have a level service standard and the usual level of service standard is at "D" level. However, due to all the traffic on the road it has been a level service "F" instead of "D". He said if they do change the level of service they propose to go to a "D plus level," which he has talked to the County about. He said then this would allow development on these properties being represented by Mr. O'Haire. He said that it is in their comp plan to actually do this.

Mr. White asked what their liabilities are if they stayed with the concurrency that is on there now.

Mr. McGarry explained that they are obligated to provide a roadway system.

Mr. White had a problem that they are not taking care of the situation by allowing more development.

Mr. McGarry said that they would have to go through the hearing process on this and he doesn't see this as a major problem.

Mr. Daige asked how many owners are there.

Mr. Michael O'Haire, Attorney, stated that he represents the three families that own the property involved. The reason he asked for a tolling agreement from the City is because there are two options. He said that they could either engage in a lawsuit because the clock is running or do this tolling agreement. He understands Mr. White's concerns, but he has to appreciate that these properties are vacant and these property owners have not been able to use their properties because of a concurrency deficiency through no fault of theirs.

Mr. Daige wanted to know how long ago Mr. O'Haire approached staff about this problem.

Mr. McGarry said that he was made aware of it about one year ago.

Mr. Daige then asked Mr. McGarry if he has worked with any of the engineering firms that would represent these properties.

Mr. McGarry answered no. He said that he has just been working with in-house staff.

Mr. Daige wanted to be informed if there are any engineering firms that do come in or have an interest in this.

Mr. Abell asked whose concurrency is this.

Mr. McGarry said that it is ours (the City). They have adopted concurrency in both their comp plan and their land use regulations.

Mr. Abell wanted to know where this stands in accordance with the 2035 MPO plan. He doesn't remember any widening of the roads to four lanes.

Mr. McGarry explained that they were not talking about four lanes. He reiterated that the problem is with the level of service.

Mr. White reminded Council when the residences at Cache Cay wanted a traffic light they asked the State and the State said that there was not enough traffic to warrant a traffic light so the City paid for the traffic light. He said that this traffic light is next to all of these properties.

Mr. Vitunac included the map of these properties as an Exhibit.

The motion passed unanimously.

9. CITY COUNCIL MATTERS

A. Old Business

1. Councilmember's time allotment under his/her matters – Requested by Mayor Sawnick

Mayor Sawnick recalled that he brought up Councilmembers time allotment at their last meeting. He said after a lot of deliberation with not only the citizens of this community, but the other Mayors in the County and other Councilmembers around the State, the process in the meeting where they are discussing correspondence, committee reports and comments are areas where action is not suppose to be taking place. He said that a lot of cities around the State have limited Councilmember's comments during this time. He said that it is important for the public to know that no action will be taken under Councilmember's Matters. He said that when he spoke to the other Mayors of the County about this they agreed that this second section be limited to correspondence that they have receive, committee reports or comments on general issues. He felt that it would be productive for them to do this at this time. He has listened to the public and this is what the public is telling him to do. In addition, he told Mr. Daige at times he gets lengthy with his committee reports, so if someone should go over the ten minute time allotment then exceptions could be made. He reiterated that action items are not to be heard under Councilmember's Matters.

Mayor Sawnick made a motion to limit Councilmember's Matters to ten minutes for correspondence, committee reports and comments with an extension being possible as long as there is a majority vote from the Council. Mr. Abell seconded the motion.

Mr. Abell said that this is very similar to what he mentioned two meetings ago.

Mr. White commented that usually under Councilmember's Matters the Council reports on their correspondence that they want to relay or they give a Committee Report. All of them belong to several Committees that they are supposed to attend and report on. The City Council is representing the City at these meetings and reporting back and that is what this item is for. He said under comments that you can't put on every meeting the exact same agenda items. He said that the items have been discussed so they need to be put to bed and lets move on. This Council has not talked about any future endeavors or future problems that they need to handle as a Council. This Council needs to be discussing the problems in hand and not the problems in the past. He said in the last six months they have not accomplished very much. They need to get back to having professional business meetings. He said a lot of people are confused that this is a public meeting. He agreed that the public should be allowed to speak and watch the business that Council takes care of. He said that Council needs to know the Committee meetings that each Councilmember has attended and be given a report.

Mr. Heady recalled that the Mayor said that other cities do it this way. He asked the Mayor to name six cities that do this.

Mayor Sawnick did not have the names of the cities written down, but would get this information to Mr. Heady.

Mr. Heady was surprised that he didn't remember the names of any cities. He asked if he could name on city any place that was doing this.

Mayor Sawnick mentioned Hillsprings, Montana.

Mr. Heady told the Mayor that the changes that he proposes for their meetings are because of another city, which would be Hillsprings, Montana. He asked the Mayor to name a Florida city and which Councilmember is the offender and is not following the rules.

Mayor Sawnick said that he was not addressing this towards any Councilmember. He did say to Mr. Heady that sometimes his items are long and repetitive.

Mr. Heady asked him if there has been any other Councilmember, other than him.

Mayor Sawnick said not that he is aware of.

Mr. Daige commented that if you go back and look at previous tapes they will find that when he gives his Committee Reports it outlines what he is doing around the City, for the good of their people. He said that the public wants to know what their elected officials are doing. He said if you look at his reporting time you will find that the time he spends giving his report is very short. He told Mayor Sawnick that he appreciated hearing from him, but he also takes quite a bit of time when he gives his reports, which is fine. He felt that under Councilmember's Matters, where there is a space for comments that individual Councilmembers should be allowed to make their comments. He said that he would stand by the statement that he made at their last meeting "That as far as how they conduct their business under Council matters, he is in favor of allowing Councilmembers to speak and it is up to them to be mindful of the Council and taxpayer's time. As individuals they need to move through the agenda, conduct their business, and be aware of the time. He said that time is important. He is not interested in restricting any member on this Council." He is in agreement that when an item is pulled off the consent agenda that it should be addressed immediately. Also, when they put an item on the agenda that there should be some backup material provided. He said in the past Councils' have conducted their business very well. He said if a Councilmember brings up things that are lengthy then there constituents will make that known. He will continue to let the general public know what he is doing and that he will be brief.

Mayor Sawnick brought up for the last six months they have been letting some things go and from his correspondence with the public this is what they want and he has brought it forward. He said that this is not about limiting, but about helping out Councilmembers to get their point across in an effective way.

Mr. Heady made a public records request to the Mayor to receive a copy of all of the correspondence that he has received.

Mayor Sawnick explained that there were a couple of e-mails which the Clerk has, but mostly it has been through verbal correspondence, conversations with the public.

Mayor Sawnick called for a vote on the motion. Mr. Heady requested to speak under discussion and he was not allowed to speak. The Mayor continued with the vote on the motion and it passed 3-2 with Mr. Heady and Mr. Daige voting no.

2. Items on agenda under New Business and Old Business – Requested by Mayor Sawnick

Mayor Sawnick asked that items that need action be placed either under Old Business or New Business and that if possible backup material be provided. He made that in the form of a motion. Mr. Abell seconded the motion.

Mr. Heady asked Mayor Sawnick if he had any names of the people that he talked to regarding the last item that they just discussed.

Mayor Sawnick told Mr. Heady that was not what they are talking about at this time.

The motion passed 5-0.

3. Discuss Efficiencies for Vero Beach Council Meetings – Requested by Vice Mayor Abell

Mr. Abell mentioned that they have taken care of most of the things that he outlined in his memo. He felt that the time for their Council matters being limited to ten minutes was good. He recalled that at their last meeting they voted on any items being pulled from the consent agenda be discussed under the consent agenda and not moved to City Manager's Matters. He agreed with that, but his suggestion was going to be that if you wanted to remove an item from the consent agenda to do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. He thought that this was a good way to do it because anyone wanting to pull an item off of the consent agenda might get the answer to their question and the item won't have to be pulled. He thought that this was a better management of time. He said that when an item is removed from the consent agenda it is telling him that someone has not done their research as to what the item really is.

Mr. Abell made a motion to add to the previous vote that was made two weeks ago, that to remove any item from the consent agenda be done by 3:00 p.m., on the Monday prior to the meeting notifying the Charter Officer who put the item on the agenda, to understand what the item was about. If an item is still removed from the consent agenda then it is heard at the time that it is removed.

Mr. Daige commented that a taxpayer could come up to them with a major concern about an item that is on the consent agenda after 3:00 p.m. on that Monday before their meeting. He felt that right now the way they are handling consent agenda items is working well. He said usually when he pulls something from the consent agenda it is for the public's benefit to hear about something on that item. He spends a lot of time with the Charter Officers during the week getting questions answered. He feels that it is a bad idea to do this. It goes back to being transparent and he doesn't want to be accused of being nontransparent and he thinks by doing something like this sets a bad perception. He wanted to leave things the way that they are.

Mr. Abell made it clear that this has nothing to do with transparency.

The motion died for lack of second.

Mr. Heady asked if he could comment on this item. Mayor Sawnick said that they are moving on in the agenda. Mr. Heady said that other members of the Council can comment on it, but he can't. He then thanked the Mayor.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

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

Mayor Sawnick reported that he attended the Indian River County Mayor's meeting, an MPO meeting, the Hibiscus Festival and on this Saturday he will be participating in the Day of Service, also on Saturday the Mayor's beach clean-up will start at Mulligans, on Monday morning he has a meeting with the City Manager, County Administrator and Peter O'Bryan, and then on Monday night he will be attending the Junior Staff Volunteer Dinner. He spoke with the City Manager that if they do decide to sell the Power Plant that they need to get what it is worth and they need to have a plan. He reminded Council that he still wanted five ideas from them for the June quarterly budget meeting.

3. Comments

B. Vice Mayor Sabin Abell's Matters

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

Mr. Abell reported that he attended the Sustainable Expo held at the Community Center, the Rotary Club Exchange Program where there were five Korean People visiting who were learning about America, he also attended an MPO meeting and the Treasure Coast Regional Planning Council meeting.

Mr. Daige would like a request to go before the MPO and that is that there be a walking trail on 20th Avenue near the canal. He will be providing something in writing.

3. Comments

C. Councilmember Tom White's Matters

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

Mr. White brought up Councilmembers attending their Committee meetings. He said that he touched on this earlier and wanted to elaborate just a little more. He brought this up because a question was asked of a Councilmember on whether or not they served as an alternate on the MPO and that Councilmember didn't know. He said the whole point is that Mr. Heady has not attended any of his Committee meetings for the last six months.

Mr. Heady stated that he was aware of the Committees that he serves on and is aware that he is the representative from City Council to certain Committees that he has been lax in attending his Committee meetings. He said that he has attended certain Committee meetings like Recreation Commission and the Veterans Memorial Island Sanctuary Advisory Committee meeting, whether he was a representative to them or not. It is not his understanding that it is mandatory for him to be at these meetings. His understanding is that he is the representative to these Committees and he is to attend if they fit into his schedule.

Mr. White explained that was the point he was trying to make. He wondered if they should have some sort of form saying that it is mandatory for a Councilmember to attend their Committee meetings if possible. He just wanted to make sure that it is understood that when you are appointed to a Committee then you have an obligation to attend the meetings.

3. Comments

D. Councilmember Brian Heady's Matters

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

Mr. Heady reported on the Elected Municipal Officials class that he attended last week. He said that one of the most interesting debates was over honest service fraud.

1. Date for presentation by Dr. Faherty and Glenn Heran

Mr. Heady reported that Dr. Faherty and Mr. Heran are going around the County giving presentations on the City utilities and he felt that the City should allow them to come before them. This way City residents are aware of when the presentation is going to

occur. He made a motion that they add (Dr. Faherty and Glenn Heran presentation) to the next agenda.

Mayor Sawnick told Mr. Heady that he did not need a motion to add something to their agenda. He suggested to Mr. Heady to place this item on their next agenda under New Business and they will be better prepared to vote on it.

Mr. Abell commented that they just voted on the process and that was not to take action under Councilmember's Matters.

2. Date for joint City/County Meeting

This item was voted down earlier in the meeting.

3. Still waiting for written answers from City Manager

Mr. Heady stated that he was still waiting for written answers from the City Manager.

4. OUC Contract

5. 50 MM penalty

Mr. Heady commented that at the last meeting he asked some questions about the OUC contract because he was trying to get it clear in his mind how the contract came to be. He said it was interesting that the Mayor told the Council that they did not have to answer questions. He said that this is the only time and opportunity at a noticed meeting when a Councilmember can ask a question on something that might come before them for a vote. He said some of the questions involved the fifty million dollar penalty in the OUC contract and it would be nice to know some answers on that. He said that if they are going to refuse to get answers then the only remedy that is available is to file suit, which will be a shame when Councilmembers cost the City taxpayers and utility ratepayers more money rather than just ask questions.

6. November Elections

Mr. Heady mentioned that there are four Councilmembers up for reelection this year and he thought that Channel 13 would provide an excellent opportunity for Councilmembers to get their message out without spending a lot of money. It also is a good opportunity to have the utility referendum debated. He said the City could put up some staff to debate the issue.

Mr. White told Mr. Heady that there is a policy in place for Channel 13 and it does not allow any politicking or debating on this government channel.

Mr. Heady asked Mr. White to provide him with the law that bars them from doing that.

7. Debate of Sale of Electric

8. 8/12/08

Mr. Heady tried to play a part of the August 12, 2008, but because of audio difficulties the sound could not be heard. He explained that the City Manager appeared before the County Commission to discuss the electric utilities. The City Manager told the County Commission that they needed to be careful of unintended consequences and that what they were dealing with was a very big issue that involved a lot of money. The City Manager said that just this morning he received notification that one of the bonding companies was going to call the bond, they wanted to settle it and they wanted to pay it in full. When he heard that one of the bonding companies had called the bond and that the City had received notification, he was concerned that the discussions could trigger some default clause in a bond and cause a bond to be called. He recently asked for a copy of this notification from the City Manager and he received a memo back from the City Manager saying that there were no documents relating to those comments. He wanted to know at this time whether that was a truthful statement and whether or not a bond had been recalled.

Mr. Gabbard explained that what he was referring to was in the situation with the bonds was with FMPA that deal with the assets, which included the Nuclear asset and Stanton 1 and Stanton 2. He tried hard to recall why this conversation came up and he was reminded by Mr. Lee, as well as their consultants and Mr. Sloan, that there were some concerns from FMPA about that. He asked Mr. Lee to come forward and briefly explain what transpired.

Mr. Lee stated that when the whole concept of selling the utilities came up there were some questions on whether there was some asset value on the St. Lucie Nuclear and Stanton 1 and Stanton 2. He received a call from Mr. Tom Readdy, from FMPA, who was confirming that they had a right to know what the City was doing because it could have a negative effect on those bonds. He said that it was just a courtesy call from Mr. Readdy.

Mr. Heady asked Mr. Lee that there was no calling of any bonds that he knows of.

Mr. Lee said no. He relayed this information to the City Manager that he received a courtesy call from the FMPA staff who had some concerns as they go forward with a possible sale, that they be kept informed.

Mr. Heady questioned if there was discussion at that time of a possible sale.

Mr. Lee answered yes. He said that they were calling for the sale of the utilities.

Mr. Gabbard added that the issue that was being discussed at the time was a vote in the Legislature to force a referendum to sell the electric utility system.

Mr. Lee explained that this referendum did not directly call for the sale of the Power Plant. What was before the Legislation (Stan Mayfield bill) was to create a Utilities

Authority. This is when discussions came up about transferring the assets to the Authority and how that would be done. He said that FMPA heard about this and said that they want to be involved in any of those discussions.

Mr. Heady continued talking about what was on the DVD and the next thing that came out was that there have been evaluations of the Power Plant done and there were some numbers thrown out and he asked to see these evaluations because they are in a position now where those evaluations are very important to them. When he asked for a copy of these evaluations he received a memo back from the City Manager saying that there are no documents/evaluations. He asked Mr. Gabbard if there were evaluations done at that point.

Mr. Gabbard explained that those numbers were provided to him by Mr. Sloan. There was no study actually done.

Mr. Heady said that those are estimates of the value by Mr. Sloan. He asked if there was anything in the files that would support those numbers.

Mr. Gabbard felt that the estimate that he quoted at the August 12, 2008 County Commission meeting was a pretty fair estimate and he would stand by that. At the time, he was trying to explain to the County Commission that this is a very complex process and there is a lot involved. He mentioned that Mr. Lee also spoke later at that same meeting. He said that he has been told by Mr. Tom Nason, former City Finance Director, that he did an estimate of the value of the Power Plant when he was employed as their Finance Director.

Mr. Heady asked the Clerk to see if she could locate the report that Mr. Nason did.

Mr. Heady mentioned that he was told in his questions on the OUC contract that the consultant had certified that the OUC contract that she had given to the Clerk was in fact the original that had been on the table in April when the City Councilmembers individually reviewed it. He asked the Clerk if she recalled Mrs. Hersey certifying that document. Mrs. Vock said that Mrs. Hersey did not certify anything.

9. Direction City Manager selection process

This item was not discussed.

E. Councilmember Ken Daige's Matters

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

Mr. Daige provided a written report (please see attached).

- 3. Comments**

11. ADJOURNMENT

Mr. Heady made a motion to adjourn tonight's meeting at 10:02 p.m. Mr. White seconded the motion and it passed unanimously.

/tv

CITY OF VERO BEACH, FLORIDA
APRIL 20, 2010 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

Pastor David Charlton of Living Lord Lutheran Church gave the invocation.

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

The Clerk requested that item 4-A) be pulled and heard at their next meeting and that items 7-A) and 2C-1) be heard together. She said that item 2C-1) was sponsored by Councilmember Daige.

Mr. White wanted to discuss under his matters, Committee meetings.

Mr. Heady wanted to have some discussion on item 4-A) so that these changes can be made before it comes back to Council on May 4, 2010.

Mrs. Vock asked that under item 7-B), they also include discussion on setting a joint meeting with the County concerning the Electric System Franchise.

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

B. Proclamations

- 1. Toastmasters International Month – April 2010**
- 2. Earth Day – April 22, 2010**
- 3. Law Week – May 1, 2010 – May 7, 2010**

Mayor Sawnick read and presented all of the Proclamations.

C. Public Comment

1. Maria Kovachek and Daniel Fourmont to speak about Mainstreet – Sponsored by Councilmember Daige

Mr. Daniel Fourmont thanked Council for allowing them to speak at their meeting tonight. He said that Mrs. Kovachek would be covering her six month report and he was here to go over the recent Hibiscus Festival which was a very successful event.

Mrs. Maria Kovachek, Main Street Manager, talked about the goals they have for this year. She said that they will continue to host the events that they have been doing, which include the Hibiscus Festival, Downtown Fridays, the Dinner Dining Strolls and their weekly Farmers Market held on Friday mornings. She expressed that they have just completed a downtown walking map (available in the City Hall Lobby). They are talking about putting some new road signage in the downtown area that will give it more charm. They want to establish the DDD district (Dining Downtown District) and are looking at the possibility of putting a permanent stage outside the Heritage Center. She said that they stay very involved with the downtown businesses and property owners. She asked the City to consider revisiting discussions of CRA's. One of their thoughts involved with renaming 14th Avenue is because just about every downtown has a Main Street. This name would give a new look and vantage point for people who want to come downtown.

Mr. Peter Jones was also at tonight's Council meeting on behalf of downtown. He said that he has been heading up the Task Force of volunteers with a goal of reopening the Theater located downtown. He said that there have been attempts before to try to make this happen and they have learned from that process. The Task Force knows what is necessary for this to happen. He said that there needs to be a good operation for opening, improvements made and a business plan. They are in the process of putting this business plan together and then plan on meeting with Mr. Bob Brackett hopefully in the next two months.

Mr. Daige asked as far as renaming 14th Avenue, how close are they to renaming it and where do you want them to go as a Council.

Mr. Fourmont felt that it was an idea that needs to be pursued. The original name was Davenport on that street and then in 1913 it was renamed Seminole Street. They think at this point it should be renamed Main Street. He said that the Theater is there, it is a busy street, and Main Street would fit the description of this street.

Mr. Daige asked if it was the consensus that the group was happy with Main Street being the new name for the street. He was told that they are.

Mayor Sawnick asked if there was anyone from the public who wished to talk about renaming 14th Avenue to Main Street. No one wished to speak on this matter.

Mr. Jim Gabbard, City Manager, asked for clarification as to how far they want the street to go. He was told from the Train Station all the way to 16th Street.

Mayor Sawnick explained the street name (14th Avenue) will always remain 14th Avenue, with the addition of new name, because of emergency services.

Mr. Gabbard agreed and said that they could adjust the signs and make the additional name (adding Main Street) just like they did with renaming the other street downtown Don Smith Avenue.

Mayor Sawnick made a motion to rename 14th Avenue to Main Street. Mr. Daige seconded the motion.

Mr. White brought up that most GPS systems are geared for 14th Avenue. He asked if the signs will have both names on them.

Mr. Gabbard said that they would. He suggested putting 14th Avenue on the top of the sign and Main Street on the bottom of the sign.

Mr. Heady felt that the motion should read to add the name of 14th Avenue instead of renaming the street Main Street. Mayor Sawnick agreed and amended his motion and Mr. Daige seconded the amendment. The motion passed unanimously.

Dr. Steven Faherty read a prepared statement (please see attached).

Mr. White told Dr. Faherty that he did not object to the bill that Representative Mayfield was proposing requiring that they be under the Public Service Commission (PSC), because they already do that voluntarily. What he did have a problem with is if it had passed that 35 other cities might have been affected. He then spoke on the recent Tallahassee trip where Mayor Sawnick, Mr. Abell, Mr. Daige, Mr. Gabbard and Mr. Vitunac went on. He said that these gentlemen went up there with no intentions of speaking on the electric. He said their travel expenses were not paid out of the electric fund. He felt a little biased when you (Dr. Faherty) talks, he comes across like they are a bunch of crooks. He said that each Councilmember lives in the City and pays City taxes and utilities. They have done away with the 10% surcharge for out of City residents that was once charged to their electric bills. Also, this Council and City staff will listen if someone calls them. He recalled a situation where someone living in Dr. Faherty's neighborhood, called him while he was Mayor and told him that he had no electricity. Mr. White made a few calls to the City and the electricity was turned back on in a short amount of time. He felt that if that person had FP&L for their utility provider that would not have happened so quickly.

Mr. Heady said that the City reimbursed his mileage when he visited OUC in Orlando. He requested that the City Manager put on the next agenda discussion of Florida League of Cities (FLOC) and Florida Municipal Power Association (FMPA) dues. He was told that the dues for both of these organizations has already been paid for this year.

Mr. Daige commented that they went to Tallahassee and carried a packet of information, which is on file in the Clerk's office and anyone can receive a copy of it. He reported on the trip at the last meeting and it is attached to the April 6, 2010 minutes. He said that the City Attorney and the City Manager could provide the names of each of the representatives that they spoke to while they were in Tallahassee.

Mr. Abell stated that Dr. Faherty continues to make statements that are incorrect. He said while they were in Tallahassee they did not discuss anything to do with the bill that Representative Mayfield was proposing. He mentioned that the number of utility customers that the City has, has been explained to him. When they went to Tallahassee the City Manager rented a car which they all drove to Tallahassee in which they knew was cheaper than if each of them was to drive their own car and have the City reimburse them at .50 per mile. As far as the Finance Commission and Utilities Commission's not having meetings, they only meet when necessary and if they have something on their agenda to talk about. He brought up the prospect of having a Utilities Authority and said that there were several meetings held over a three month time frame and what came out of those meetings was that the utility rates would go up if they had an Authority. There was no interest expressed that they would benefit by having a Utilities Authority.

Mr. Robert Walsh said that of everyone sitting on this Council there is only one Councilmember who has been digging into the mess that this Council inherited. He does not agree with limiting the public to only being allowed to speak for three minutes.

Mr. Ted Gordon told the Council that they could not continue to operate the way that they are. He said that they need to work as a team and learn how to work with each other.

Mr. J. Rock Tonkel wanted to deal with the issue of the request for a joint workshop meeting between the City and the County. He said that the County Commission sent a letter to the Mayor requesting this workshop. He read parts of the letter and encouraged Council to enter into this discussion, in good faith and have further conversation with interested citizens. He requested a copy of any response that the City sends to the County Commission. He brought up the County Commission meetings and noted that there is a different environment in the County then here in the City. The County encourages conversation and debate. He said that the Councilmembers are important role models for this community and he pleaded with them to forget about time limitations because it will help get the business that needs to be done with the help of the public.

Mr. Heady made a motion to have the workshop that Mr. Tonkel is suggesting.

Mayor Sawnick said that item will be discussed under City Manager's Matters.

The motion died for lack of a second.

Mr. Joseph Guffanti stated that tonight they were going to watch the presentation that Mr. Gabbard made to the County Commission back in 2008 (item is 10-D8 under Mr. Heady's matters). He said that when they watch it that they need to pay attention to the aura of urgency that Mr. Gabbard expresses and the danger that he portrays that the City of Vero Beach was in because someone contacted him about the position of the City's bonds. What concerns him at the moment is the recent memo signed by the City Manager to Mr. Heady, which states that he checked his files and found no written documents made concerning his comments. He couldn't believe that when someone makes such a statement on an important issue that there is no backup material available. He told Council to also notice the usage of the word "settle" in the video and all of them should wonder what context that word is made and where he (Mr. Gabbard) got it from. He then made some comments referring to the memo that Mr. Abell had on the agenda regarding the efficiencies of running a Council meeting.

Mr. M.J. Wicker stated that several weeks ago he approached Mr. Gabbard about the possibility of reopening the Dodgertown golf course. He has explored a number of different avenues and he has provided Mr. Gabbard with a memo hoping to get a letter of intent in pursuing this opportunity to open the golf course back up. It is not so much about the money as offering the community an affordable option of recreation.

Mr. Gabbard explained that there are two potential proposals being offered to restore the golf course. One is from Mr. Wicker and the other is from the Wadsworth Foundation. Also, Mr. Craig Callan, with MiLB, has expressed an interest for the land to use for some more ball fields. Staff will put out a bid for proposal, which will outline the rules on what the City expects and bring these things back to Council to see if they want to take any of these different parties up on an offer. He also will give a more in depth report at their next meeting.

Mr. Daige asked Mr. Gabbard if that gives him enough time to get the paper work out to these different individuals.

Mr. Gabbard answered yes. He said that he would try to get the RFP out by next week so Council has time to look at it.

Mr. Daige commented that Council has always been open to allow people to speak. The only thing that he would ask is that people be civil. He said that right now there is no time limit for people coming up to express themselves.

Mr. Heady returned back to the discussion of the golf course and commented that the idea to send out an RFP is nice, but what you do when you do that is limit the proposal that you are going to get back by statements in your request. He said if there are a couple of entities who are interested in doing this then why don't we ask them to give us their proposal. He said let them send to us what they propose.

Mr. Gabbard explained that these interested parties have a number of questions as to what the City expects from them.

Mr. Heady asked Mr. Gabbard to send him a list of questions that these parties have.

Mr. Gabbard said that as for the Wadsworth Foundation, all he has is some information as to what they have done in the past. He will make sure that Council is informed as they move forward on this and that they are involved in the decision.

Mr. Wicker said that of course the most important thing for him is what it is going to cost. He wants people to be able to play golf at an affordable rate and hopes to charge the same fee that was in place when the golf course closed.

Mayor Sawnick was confident that the process they will be going through is the right way.

Mr. Gabbard indicated that a meeting has been scheduled with County staff to talk about the golf course and to make sure that MILB is taken care of.

Mr. Heady requested Mr. Gabbard to give him any information that he has. He was concerned on how much money they spend and before spending any money on RFP's that he wants to see what staff has in mind.

Mr. Gabbard will provide Mr. Heady a copy of the 2007 RFP.

D. Adoption of Consent Agenda

Mr. Daige pulled items 2D-1) and 2D-4) off of the consent agenda.

Mr. Heady pulled items 2D-3) and 2D-4) off of the consent agenda.

Mr. White made a motion to approve item 2D-2) on the consent agenda. Mayor Sawnick seconded the motion and it passed unanimously.

1. Regular City Council Minutes – April 6, 2010

Mr. Daige made it clear that the minutes were accurate, he just wanted to point out on Page 10, Paragraph 8, where Mr. McGarry states that the Ordinance (amending Chapter 30, Alcoholic Beverages) preempts home rule. He has a problem with the Ordinance if it preempts homerule and doesn't want to see that in the Ordinance. He will be sending Council some information on this.

Mr. White made a motion to approve the April 6, 2010 minutes. Mr. Daige seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – March 29, 2010

These minutes were approved under the consent agenda.

3. Habitat Cracker Hoedown

Mr. Heady referred to the memo that they received on this request and noted that the Chairman requested to appear before City Council and tell them about the event. He asked that this be done.

Mr. David Taylor, Hoedown Chairman, reported that this is the annual major fundraiser that Indian River Habitat has. They will be having a dinner, bar service, silent auction, there will be a mechanical bull and some game booths. The event will be held at Riverside Park, the same place where it has been held for the last two years. He said they are charging \$75.00 per person for the event.

Mayor Sawnick made a motion to approve the request from Indian River Habitat for Humanity. Mr. Daige seconded the motion and it passed unanimously.

4. Monthly Capital Projects' Status Reports

Mr. Daige asked that in the future that the pages be numbered in the Monthly Status Report. He had a question for the Water and Sewer Director, where it states change order to date. He wanted to know what the revenue source was for that amount of money, where the money is coming from, and did he receive grant money.

Mr. Rob Bolton, Water and Sewer Director, explained that the change order was approved by Council months ago. He went over the reason for the change order and explained that the funding for this project was coming from the SRF loan funding program at a low interest rate.

Mr. Heady had a question on this same page. He asked if the City decides to join the County in respect to water and wastewater, would this project even be needed.

Mr. Bolton said that the County's interest in joining on the wastewater end of things would be much more expensive than this. He said by completing this project, it gets the City through all of their DEP regulations that they have certain consent orders on that they would no longer send any water into the lagoon. He said recently there have been new future regulations that have come out and by doing this they have met all of these new regulations.

Mr. Heady commented that it just seems to him that they continue to spend a ton of money on water and sewer and at the same time they have questions as to whether or not they are going to have the customer base that they currently have and whether or not it is in the taxpayers interest to join forces with the County.

Mr. Bolton said that they were required to spend these dollars by a time given. They were under a consent order, as of January 2009, to have everything in place by eighteen months and that will be done.

Mr. Heady referred to the State Road A-1-A landscape improvements. He asked if there were any estimates to when the sidewalks would be completed.

Mr. Monte Falls, Public Work's Director, stated that they are 99% complete.

Mr. Heady then referred to the Bay Drive and River Drive Bridge Replacements and asked why it has taken so much time to get this project completed.

Mr. Falls explained that they needed to make a change in the way that the utilities were located and it took them an additional twenty days in order to get the necessary permits.

Mr. Heady made a motion to accept the Monthly Capital Projects' Status Report. Mayor Sawnick seconded the motion and it passed unanimously.

Council took a five-minute break at 7:33 p.m.

3. PUBLIC HEARINGS

- A) An Ordinance amending Chapter 2, Article VIII (Purchasing and Contracts) of the Code of Ordinances of the City of Vero Beach to replace Section 2-351(7), "Local Bidders," with a New Section 2-352, "Local Preference in Purchasing or Contracting," to provide for an expanded Local Preference Policy and Procedure for Local Businesses in City Purchases or Contracts; including Brevard, Indian River, Martin, Okeechobee, and St. Lucie Counties in the definition of "Local Business;" providing for severability; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. John O'Brien, Manager of Purchasing, provided backup material suggesting that they remove Brevard and Okeechobee County from this Ordinance.

Mr. White asked if they do that, could they still pass this Ordinance tonight. He was told that they could make an amendment to the Ordinance and still approve it tonight. He then asked Mr. O'Brien to explain why he wants to remove these two Counties.

Mr. O'Brien explained that Okeechobee County provides 5% local preference to Okeechobee County bidders, but does not include any other counties or cities. As a result, if a City of Vero Beach contractor was the low bidder on an Okeechobee County bid and an Okeechobee County contractor was within 5% of the Vero Beach contractor, the Vero Beach contractor would be eliminated. However, if an Okeechobee contractor is low on a City of Vero Beach bid and a City of Vero Beach contractor is the second

lowest, the Okeechobee contractor would be awarded the City's bid since we consider him local. He said with Brevard County there are four categories to consider, so if you have a bid under \$500,000 in Brevard County and an out of State contractor is a low bidder, a Brevard County contractor within 4% of the low bidder and a City of Vero Beach contractor within 3% of the low bid, the Brevard contractor would receive the award. In a City of Vero Beach bid, Brevard County receives the same preference as a City of Vero Beach contractor.

Mayor Sawnick opened and closed the public hearing at 7:45 p.m., with no one wishing to be heard.

Mr. Daige agreed that both Counties should be removed from the Ordinance.

Mayor Sawnick also agreed and added that they could always add them back in the future.

Mayor Sawnick made a motion to remove Okeechobee and Brevard County from this Ordinance. Mr. White seconded the motion and it passed unanimously.

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

Mr. Heady commented that he has fought for local preference for a long time and this Ordinance will allow the City to award bids based on local preference. He read the existing law that is being removed. The new law is five pages, which is a lot of work on staff to have to add all that new language. He said that they should be finding ways to reduce laws and not to enlarge them. He would urge Council to stick with the current law.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, repealing and replacing Resolution 2008-30, and amending The Veterans Memorial Island Sanctuary authorized uses and Memorials to add additional area immediately East of the Veterans Memorial Island Sanctuary to existing committee rules regarding Memorials and Plaques; providing for an Effective Date.**

This Resolution was pulled off of the agenda and will be heard at the May 4, 2010, City Council meeting.

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, instituting a one hundred eighty (180) day Moratorium on the Issuance of Development Orders to Establish “Pain Clinics” or “Pain Management Clinics” within the City of Vero Beach to allow time for the City Staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, stated that Council directed staff to establish a 180 day moratorium on the issuance of development orders pertaining to the establishment of pain clinics and pain management clinics in the City of Vero Beach. The Ordinance is based on similar Ordinances enacted by local governments in Broward, Martin, and Palm Beach Counties. The Ordinance is intended to prevent such clinics from being established in the City of Vero Beach until such time that staff reviews the possible measures for regulating these clinics and prepares the appropriate regulations for consideration by Council. He told Council that they should be aware that Senate Bill 2272 is currently moving through the Florida Legislature, which may place additional regulatory and reporting requirements on such clinics.

Mr. Charles Vitunac, City Attorney, told Council that since the law does not favor moratoriums and the Legislature will have acted on it in the next several weeks, they felt that six months was sufficient and if it is not done they can ask for an extension. He said that it is easier for them to defend, if challenged, if the moratorium was for a shorter period such as six months.

Mayor Sawnick made a motion to approve the Ordinance on first reading and to set the first public hearing for May 18, 2010. Mr. Daige seconded the motion.

Mr. Daige was in agreement with extending the moratorium if they needed to.

Mr. White wondered if they should put in the Ordinance that the 180 days can be extended by the will of the Council.

Mr. McGarry said they could have put that in the Ordinance but felt that the shorter the moratorium the more defensible it is. He hopes that the Florida Legislature will enforce some rules that will take care of this problem.

Mr. Abell referred to Page 3, Paragraph 2, Section C, and said that he thought that there were some words that need to be changed. Staff agreed that the word “is” needed to be inserted between the words “who and a.”

Mr. Heady made it clear that when he brought this matter up at their last meeting, what he wanted to do was make a motion for Council to approve a moratorium, but not have the legal staff have to draw up this five page document. All that was needed for staff was

direction from the Council that they not be allowed to issue any permits for pain clinics and that is all it would take.

Mr. Abell explained that Council is a little gun shy because they recently had an issue and an Ordinance in place where someone couldn't understand where he lived. So they are trying to make their Ordinances more specific.

Mr. Heady has found that when government tries to identify every specific item that may come up in the future, that the only thing they do is open up more loop holes. He understands Mr Abell's point about the election law and thought that it was clear. He just thinks that they need to stop making needless work for themselves.

Mr. Vitunac explained that the reason they did this was because they will win in court this way and if they did it the way he suggested they would probably lose.

Mr. Heady told Mr. Vitunac that he has not had a good track record of telling them when they will win in court or not win. He said that the City spent millions of dollars based on his advise that they would win and they did not. He said the reality is you don't know who will win or who will not win in court. He said that if someone came to them and asked for a permit and they were turned down by the City, the State Legislature will have made up their mind before the issue could even get to court.

The Clerk polled the Council on 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) Name Change of 14th Avenue to Main Street – Requested by Main Street Vero Beach

This item was heard earlier in the meeting.

B) Electric Utility Billing – John Lee

Mr. John Lee, Acting Electric Utilities Director, commented that if you mention electric utilities in this town you get some strong emotional responses. He said tonight he wanted to present some facts to the public and Council. He provided them with a copy of a utility bill and explained everything on the bill line by line (please see attached). He also went through Bulk Power Cost, Lowest to Highest Residential Bill Comparison, March 2010, and the Electric Rate Comparison – March 2010.

Mayor Sawnick suggested waiting until after they have received some comments back from FP&L before setting a joint meeting with the County.

Mr. White expressed that citizens don't understand what Bulk Power Cost means. He suggested putting Fuel Cost in place of Bulk Power Cost.

Mr. Lee explained that customers tend to tie fuel cost in with the price of gas that they purchased at the gas station, which is why he doesn't agree with putting "Fuel Cost" in place of "Bulk Power Cost."

Mr. Daige mentioned to Mr. Lee that he talked about FP&L base rate. He said that it was his understanding that this base rate is not the same throughout the State of Florida.

Mr. Lee said that they may have some different franchise agreements here and there, but their base rate is their base rate.

Mr. Daige complimented Mr. Lee on explaining Bulk Rate and felt that some explanation should be on the bills so the public understands what it means. He expressed that he still wants to see the utility bills continue to go lower. He said if they need to bring this suggestion back up at their next meeting, he would be happy to do that.

Mr. Lee said that he would rather not put the explanation on the bill, but could put in some sort of generic insert.

Mayor Sawnick suggested because this will cost money that they wait until their next meeting and discuss this in more detail.

Mr. Daige had no problem with just typing something on the bill.

Mr. Lee went over what has to be done to change anything on the bill and said it is easier to put an insert in the envelope along with the bill.

Mayor Sawnick asked Mr. Lee to bring this back to them at their next meeting for further discussion.

Mr. Heady has heard over and over from the City Manager that they have lost the public relations war, which is one of the reasons to have this joint meeting with the County. He agrees that there will be certain areas that will not be discussed because of negotiations with FP&L. However, for them to not be at that meeting just will further damage the Council and damage the utilities and what they need to do at this time is be as open and transparent as possible. He reiterated that it was important for them to consider the County's request in holding a joint meeting and agree to set a date. He made that in the form of a motion.

Mayor Sawnick suggested that they put this item on their next meeting under New Business.

Mr. White asked that if there is going to be a joint meeting, will the County pay for Sue Hersey and R.B. Sloan to attend the meeting.

Mr. Heady told Mr. White that no one has asked for them to be at that meeting.

Mr. White felt that these individuals needed to be at that meeting because they have the knowledge to answer questions and making sure that the facts and truths come out. He felt that if they were going to agree to this meeting, then it needed to be done the right way.

Mr. Daige would like to see this item on their next agenda under City Manager's Matters. The City Manager did not have a problem with this item being placed under his matters.

The motion died for lack of a second.

Mr. Abell added that anything discussed at this meeting needs to be carefully considered because they are in a situation right now where they are waiting to see if anyone is interested in buying the system.

Mr. White suggested sending a copy of DVD of the meeting where they discussed utilities where both Mrs. Hersey and Mr. Sloan were present over to the County for them to review.

C) Veterans Memorial Island Sanctuary Resolution

Mr. Heady referred to the map that was provided along with the Resolution. He pointed to some additional area, which will be included under the Veterans Memorial Island Sanctuary Committee's control. He said if you look at the square it encompasses the road. So what they would be doing is putting a road under the care, control, and custody of this Committee. This would mean that they would be prohibiting bikes from entering the roadway. He suggested when this Resolution is heard at their next meeting that the center island be included, but that they exclude the road.

Mr. Vitunac stated that he would pass this along to Mrs. Helen Glenn, Chairman of the Committee.

8. CITY ATTORNEY'S MATTERS

A) Tolling Agreement for Certain Potential Bert Harris Act Lawsuits

Mr. Vitunac explained that Michael O'Haire is the attorney for several property owners who own land along A-1-A and who claim that they have causes of action against the City based on their inability to develop the land because of traffic concurrency issues. The Planning Director is working on amendments to the City's Comprehensive Land Use Plan, which would resolve these issues. The problem is that the amendments would not be adopted until this summer and some of Mr. O'Haire's claims by then will have expired

(statutes of limitations run out). Mr. O’Haire has proposed a solution, which has his clients and the City entering into a “tolling agreement” so that the statute of limitations will not run during the period from the date of signing this agreement until the date either party exits the agreement. Then if the City Comprehensive Plan amendments are passed, the issues would be resolved. However, if the amendments don’t pass then the City would exit the agreement and his clients could pursue what rights that they have. The benefit of this agreement is that it makes it unnecessary to file lawsuits to achieve the same result.

Mr. Heady made a motion to approve the Tolling Agreement. Mayor Sawnick seconded the motion.

Mr. White wanted to hear from Mr. McGarry on the concurrency. He noted that they entered in conjunction with the County on a volunteer concurrency as a test for the State. The State had come and offered to widen A-1-A however the residents and property owners did not want it widened so it has remained two lanes. He said either they go by the rules that are set or they do away with concurrency.

Mr. McGarry explained that they are required under Florida Statutes that under their comp plan, that they have set up a concurrency mechanism. He said that all of their roads have a level service standard and the usual level of service standard is at “D” level. However, due to all the traffic on the road it has been a level service “F” instead of “D”. He said if they do change the level of service they propose to go to a “D plus level,” which he has talked to the County about. He said then this would allow development on these properties being represented by Mr. O’Haire. He said that it is in their comp plan to actually do this.

Mr. White asked what their liabilities are if they stayed with the concurrency that is on there now.

Mr. McGarry explained that they are obligated to provide a roadway system.

Mr. White had a problem that they are not taking care of the situation by allowing more development.

Mr. McGarry said that they would have to go through the hearing process on this and he doesn’t see this as a major problem.

Mr. Daige asked how many owners are there.

Mr. Michael O’Haire, Attorney, stated that he represents the three families that own the property involved. The reason he asked for a tolling agreement from the City is because there are two options. He said that they could either engage in a lawsuit because the clock is running or do this tolling agreement. He understands Mr. White’s concerns, but he has to appreciate that these properties are vacant and these property owners have not

been able to use their properties because of a concurrency deficiency through no fault of theirs.

Mr. Daige wanted to know how long ago Mr. O'Haire approached staff about this problem.

Mr. McGarry said that he was made aware of it about one year ago.

Mr. Daige then asked Mr. McGarry if he has worked with any of the engineering firms that would represent these properties.

Mr. McGarry answered no. He said that he has just been working with in-house staff.

Mr. Daige wanted to be informed if there are any engineering firms that do come in or have an interest in this.

Mr. Abell asked whose concurrency is this.

Mr. McGarry said that it is ours (the City). They have adopted concurrency in both their comp plan and their land use regulations.

Mr. Abell wanted to know where this stands in accordance with the 2035 MPO plan. He doesn't remember any widening of the roads to four lanes.

Mr. McGarry explained that they were not talking about four lanes. He reiterated that the problem is with the level of service.

Mr. White reminded Council when the residences at Cache Cay wanted a traffic light they asked the State and the State said that there was not enough traffic to warrant a traffic light so the City paid for the traffic light. He said that this traffic light is next to all of these properties.

Mr. Vitunac included the map of these properties as an Exhibit.

The motion passed unanimously.

9. CITY COUNCIL MATTERS

A. Old Business

1. Councilmember's time allotment under his/her matters – Requested by Mayor Sawnick

Mayor Sawnick recalled that he brought up Councilmembers time allotment at their last meeting. He said after a lot of deliberation with not only the citizens of this community, but the other Mayors in the County and other Councilmembers around the State, the

process in the meeting where they are discussing correspondence, committee reports and comments are areas where action is not suppose to be taking place. He said that a lot of cities around the State have limited Councilmember's comments during this time. He said that it is important for the public to know that no action will be taken under Councilmember's Matters. He said that when he spoke to the other Mayors of the County about this they agreed that this second section be limited to correspondence that they have receive, committee reports or comments on general issues. He felt that it would be productive for them to do this at this time. He has listened to the public and this is what the public is telling him to do. In addition, he told Mr. Daige at times he gets lengthy with his committee reports, so if someone should go over the ten minute time allotment then exceptions could be made. He reiterated that action items are not to be heard under Councilmember's Matters.

Mayor Sawnick made a motion to limit Councilmember's Matters to ten minutes for correspondence, committee reports and comments with an extension being possible as long as there is a majority vote from the Council. Mr. Abell seconded the motion.

Mr. Abell said that this is very similar to what he mentioned two meetings ago.

Mr. White commented that usually under Councilmember's Matters the Council reports on their correspondence that they want to relay or they give a Committee Report. All of them belong to several Committees that they are supposed to attend and report on. The City Council is representing the City at these meetings and reporting back and that is what this item is for. He said under comments that you can't put on every meeting the exact same agenda items. He said that the items have been discussed so they need to be put to bed and lets move on. This Council has not talked about any future endeavors or future problems that they need to handle as a Council. This Council needs to be discussing the problems in hand and not the problems in the past. He said in the last six months they have not accomplished very much. They need to get back to having professional business meetings. He said a lot of people are confused that this is a public meeting. He agreed that the public should be allowed to speak and watch the business that Council takes care of. He said that Council needs to know the Committee meetings that each Councilmember has attended and be given a report.

Mr. Heady recalled that the Mayor said that other cities do it this way. He asked the Mayor to name six cities that do this.

Mayor Sawnick did not have the names of the cities written down, but would get this information to Mr. Heady.

Mr. Heady was surprised that he didn't remember the names of any cities.

Mayor Sawnick mentioned Hillsprings, Montana.

Mr. Heady told the Mayor that the changes that he proposes for their meetings are because of another city, which would be Hillsprings, Montana. He asked the Mayor to

name a Florida city and which Councilmember is the offender and is not following the rules.

Mayor Sawnick said that he was not addressing this towards any Councilmember. He did say to Mr. Heady that sometimes his items are long and repetitive.

Mr. Heady asked him if there has been any other Councilmember, other than him.

Mayor Sawnick said not that he is aware of.

Mr. Daige commented that if you go back and look at previous tapes they will find that when he gives his Committee Reports it outlines what he is doing around the City, for the good of their people. He said that the public wants to know what their electric officials are doing. He said if you look at his reporting time you will find that the time he spends giving his report is very short. He told Mayor Sawnick that he appreciated hearing from him, but he also takes quite a bit of time when he gives his reports, which is fine. He felt that under Councilmember's Matters, where there is a space for comments that individual Councilmembers should be allowed to make their comments. He said that he would stand by the statement that he made at their last meeting "That as far as how they conduct their business under Council matters, he is in favor of allowing Councilmembers to speak and it is up to them to be mindful of the Council and taxpayer's time. As individuals they need to move through the agenda, conduct their business, and be aware of the time. He said that time is important. He is not interested in restricting any member on this Council." He is in agreement that when an item is pulled off the consent agenda that it should be addressed immediately. Also, when they put an item on the agenda that there should be some backup material provided. He said in the past Councils' have conducted their business very well. He said if a Councilmember brings up things that are lengthy then their constituents will make that known. He will continue to let the general public know what he is doing and that he will be brief.

Mayor Sawnick brought up for the last six months they have been letting some things go and from his correspondence with the public this is what they want and he has brought it forward. He said that this is not about limiting, but about helping out Councilmembers to get their point across in an effective way.

Mr. Heady made a public records request to the Mayor to receive a copy of all of the correspondence that he has received.

Mayor Sawnick explained that there were a couple of e-mails which the Clerk has, but mostly it has been through verbal conversations with the public.

Mayor Sawnick called for a vote on the motion. Mr. Heady requested to speak under discussion. The Mayor continued with the vote on the motion and it passed 3-2 with Mr. Heady and Mr. Daige voting no.

2. Items on agenda under New Business and Old Business – Requested by Mayor Sawnick

Mayor Sawnick asked that items that need action be placed either under Old Business or New Business and that if possible backup material be provided. He made that in the form of a motion. Mr. Abell seconded the motion.

Mr. Heady asked Mayor Sawnick if he had any names of the people that he talked to regarding the last item that they just discussed.

Mayor Sawnick told Mr. Heady that was not what they are talking about at this time.

The motion passed 5-0.

3. Discuss Efficiencies for Vero Beach Council Meetings – Requested by Vice Mayor Abell

Mr. Abell mentioned that they have taken care of most of the things that he outlined in his memo. He felt that the time for their Council matters being limited to ten minutes was good. He recalled that at their last meeting they voted on any items being pulled from the consent agenda be discussed under the consent agenda and not moved to City Manager's Matters. He agreed with that, but his suggestion was going to be that if you wanted to remove an item from the consent agenda to do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. He thought that this was a good way to do it because anyone wanting to pull an item off of the consent agenda might get the answer to their question and the item won't have to be pulled. He thought that this was a better management of time. He said that when an item is removed from the consent agenda it is telling him that someone has not done their research as to what the item really is.

Mr. Abell made a motion to add to the previous vote that was made two weeks ago, that to remove any item from the consent agenda be done by 3:00 p.m., on the Monday prior to the meeting notifying the Charter Officer who put the item on the agenda, to understand what the item was about. If an item is still removed from the consent agenda then it is heard at the time that it is removed.

Mr. Daige commented that a taxpayer could come up to them with a major concern about an item that is on the consent agenda after 3:00 p.m. on that Monday before their meeting. He felt that right now the way they are handling consent agenda items is working well. He said usually when he pulls something from the consent agenda it is for the public's benefit to hear about something on that item. He spends a lot of time with the Charter Officers during the week getting questions answered. He feels that it is a bad idea to do this. It goes back to being transparent and he doesn't want to be accused of being nontransparent and he thinks by doing something like this sets a bad perception. He wanted to leave things the way that they are.

Mr. Abell made it clear that this has nothing to do with transparency.

The motion died for lack of second.

Mr. Heady asked if he could comment on this item. Mayor Sawnick said that they are moving on in the agenda. Mr. Heady said that other members of the Council can comment on it, but he can't. He then thanked the Mayor.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

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

Mayor Sawnick reported that he attended the Indian River County Mayor's meeting, an MPO meeting, the Hibiscus Festival and on this Saturday he will be participating in the Day of Service, also on Saturday the Mayor's beach clean-up will start at Mulligans, on Monday morning he has a meeting with the City Manager, County Administrator and Peter O'Bryan, and then on Monday night he will be attending the Junior Staff Volunteer Dinner. He spoke with the City Manager that if they do decide to sell the Power Plant that they need to get what it is worth and they need to have a plan. He reminded Council that he still wanted five ideas from them for the June quarterly budget meeting.

3. Comments

B. Vice Mayor Sabin Abell's Matters

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

Mr. Abell reported that he attended the Sustainable Expo held at the Community Center, the Rotary Club Exchange Program where there were five Korean People visiting who were learning about America, he also attended an MPO meeting and the Treasure Coast Regional Planning Council meeting.

Mr. Daige would like a request to go before the MPO and that is that there be a walking trail on 20th Avenue near the canal. He will be providing something in writing.

3. Comments

C. Councilmember Tom White's Matters

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

Mr. White brought up Councilmembers attending their Committee meetings. He said that he touched on this earlier and wanted to elaborate just a little more. He brought this up

because a question was asked of a Councilmember on whether or not they served as an alternate on the MPO and that Councilmember didn't know. He said the whole point is that Mr. Heady has not attended any of his Committee meetings for the last six months.

Mr. Heady stated that he was aware of the Committees that he serves on and is aware that he is the representative from City Council to certain Committees that he has been lax in attending his Committee meetings. He said that he has attended certain Committee meetings like Recreation Commission and the Veterans Memorial Island Sanctuary Advisory Committee meeting, whether he was a representative to them or not. It is not his understanding that it is mandatory for him to be at these meetings. His understanding is that he is the representative to these Committees and he is to attend if they fit into his schedule.

Mr. White explained that was the point he was trying to make. He wondered if they should have some sort of form saying that it is mandatory for a Councilmember to attend their Committee meetings if possible. He just wanted to make sure that it is understood that when you are appointed to a Committee then you have an obligation to attend the meetings.

3. Comments

D. Councilmember Brian Heady's Matters

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

Mr. Heady reported on the Elected Municipal Officials class that he attended last week. He said that one of the most interesting debates was over honest service fraud.

1. Date for presentation by Dr. Faherty and Glenn Heran

Mr. Heady reported that Dr. Faherty and Mr. Heran are going around the County giving presentations on the City utilities and he felt that the City should allow them to come before them. This way City residents are aware of when the presentation is going to occur. He made a motion that they add (Dr. Faherty and Glenn Heran presentation) to the next agenda.

Mayor Sawnick told Mr. Heady that he did not need a motion to add something to their agenda. He suggested to Mr. Heady to place this item on their next agenda under New Business and they will be better prepared to vote on it.

Mr. Abell commented that they just voted on the process and that was not to take action under Councilmember's Matters.

2. Date for joint City/County Meeting

This item was voted down earlier in the meeting.

3. Still waiting for written answers from City Manager

Mr. Heady stated that he was still waiting for written answers from the City Manager.

4. OUC Contract

5. 50 MM penalty

Mr. Heady commented that at the last meeting he asked some questions about the OUC contract because he was trying to get it clear in his mind how the contract came to be. He said it was interesting that the Mayor told the Council that they did not have to answer questions. He said that this is the only time and opportunity at a noticed meeting when a Councilmember can ask a question on something that might come before them for a vote. He said some of the questions involved the fifty million dollar penalty in the OUC contract and it would be nice to know some answers on that. He said that if they are going to refuse to get answers then the only remedy that is available is to file suit, which will be a shame when Councilmembers cost the City taxpayers and utility ratepayers more money rather than just ask questions.

6. November Elections

Mr. Heady mentioned that there are four Councilmembers up for reelection this year and he thought that Channel 13 would provide an excellent opportunity for Councilmembers to get their message out without spending a lot of money. It also is a good opportunity to have the utility referendum debated. He said the City could put up some staff to debate the issue.

Mr. White told Mr. Heady that there is a policy in place for Channel 13 and it does not allow any politicking or debating on this government channel.

Mr. Heady asked Mr. White to provide him with the law that bars them from doing that.

7. Debate of Sale of Electric

8. 8/12/08

Mr. Heady tried to play a part of the August 12, 2008, but because of audio difficulties the sound could not be heard. He explained that the City Manager appeared before the County Commission to discuss the electric utilities. The City Manager told the County Commission that they needed to be careful of unintended consequences and that what they were dealing with was a very big issue that involved a lot of money. The City Manager said that just this morning he received notification that one of the bonding companies was going to call the bond, they wanted to settle it and they wanted to pay it in full. When he heard that one of the bonding companies had called the bond and that the City had received notification, he was concerned that the discussions could trigger some default clause in a bond and cause a bond to be called. He recently asked for a copy of

this notification from the City Manager and he received a memo back from the City Manager saying that there were no documents relating to those comments. He wanted to know at this time whether that was a truthful statement and whether or not a bond had been recalled.

Mr. Gabbard explained that what he was referring to was in the situation with the bonds was with FMPA that deal with the assets, which included the Nuclear asset and Stanton 1 and Stanton 2. He tried hard to recall why this conversation came up and he was reminded by Mr. Lee, as well as their consultants and Mr. Sloan, that there were some concerns from FMPA about that. He asked Mr. Lee to come forward and briefly explain what transpired.

Mr. Lee stated that when the whole concept of selling the utilities came up there were some questions on whether there was some asset value on the St. Lucie Nuclear and Stanton 1 and Stanton 2. He received a call from Mr. Tom Readdy, from FMPA, who was confirming that they had a right to know what the City was doing because it could have a negative effect on those bonds. He said that it was just a courtesy call from Mr. Readdy.

Mr. Heady asked Mr. Lee that there was no calling of any bonds that he knows of.

Mr. Lee said no. He relayed this information to the City Manager that he received a courtesy call from the FMPA staff who had some concerns as they go forward with a possible sale, that they be kept informed.

Mr. Heady questioned if there was discussion at that time of a possible sale.

Mr. Lee answered yes. He said that they were calling for the sale of the utilities.

Mr. Gabbard added that the issue that was being discussed at the time was a vote in the Legislature to force a referendum to sell the electric utility system.

Mr. Lee explained that this referendum did not directly call for the sale of the Power Plant. What was before the Legislation (Stan Mayfield bill) was to create a Utilities Authority. This is when discussions came up about transferring the assets to the Authority and how that would be done. He said that FMPA heard about this and said that they want to be involved in any of those discussions.

Mr. Heady continued talking about what was on the DVD and the next thing that came out was that there have been evaluations of the Power Plant done and there were some numbers thrown out and he asked to see these evaluations because they are in a position now where those evaluations are very important to them. When he asked for a copy of these evaluations he received a memo back from the City Manager saying that there are no documents/evaluations. He asked Mr. Gabbard if there were evaluations done at that point.

Mr. Gabbard explained that those numbers were provided to him by Mr. Sloan. There was no study actually done.

Mr. Heady said that those are estimates of the value by Mr. Sloan. He asked if there was anything in the files that would support those numbers.

Mr. Gabbard felt that the estimate that he quoted at the August 12, 2008 County Commission meeting was a pretty fair estimate and he would stand by that. At the time, he was trying to explain to the County Commission that this is a very complex process and there is a lot involved. He mentioned that Mr. Lee also spoke later at that same meeting. He said that he has been told by Mr. Tom Nason, former City Finance Director, that he did an estimate of the value of the Power Plant when he was employed as their Finance Director.

Mr. Heady asked the Clerk to see if she could locate the report that Mr. Nason did.

Mr. Heady mentioned that he was told in his questions on the OUC contract that the consultant had certified that the OUC contract that she had given to the Clerk was in fact the original that had been on the table in April when the City Councilmembers individually reviewed it. He asked the Clerk if she recalled Mrs. Hersey certifying that document. Mrs. Vock said that Mrs. Hersey did not certify anything.

9. Direction City Manager selection process

This item was not discussed.

E. Councilmember Ken Daige's Matters

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

Mr. Daige provided a written report (please see attached).

3. Comments

11. ADJOURNMENT

Mr. Heady made a motion to adjourn tonight's meeting at 10:02 p.m. Mr. White seconded the motion and it passed unanimously.

/tv

Presentation to City Council
By Dr. Stephen J. Faherty, Sr.
April 20, 2010

MISCELLANEOUS

With regard to public meetings/discussions/comments on the City's stance on the Mayfield legislation.

- Rep. Mayfield in 3/17 and 4/15 VN articles says she was visited multiple times by lobbyists for both the Florida League of Cities and the Florida Municipal Electric Assn. who opposed her legislation and asked her to drop it.
- In a 3/23/VN article Mr. “Abell said he expects the topic of Mayfield’s proposed utilities legislation, which the city is against, to be a hot topic [at the Tallahassee meetings]. “We are not in favor of it, Abell said.”
- 4/7 PJ – “Faherty in a recent e-mail, accused some city administration members of lobbying against Mayfield’s bill during a trip to Tallahassee for the Florida League of Cities Legislative Action Day. Both Mayor Sawnick and City Manager Gabbard denied the assertion.”
- These conflicting news articles raise questions regarding what was the position of the City on the Mayfield legislation.
- Mr. Mayor: Were there any public hearings or meetings prior to your Tallahassee lobbying trip on what the City position should be on the proposed

Mayfield Local Legislation in order to get input from City voters and electric customers (39% inside & 61% O/S)????? Who authorized the City Council and Administration to go against the public opinion expressed at the January 26th State Delegation meeting where the opinion of customers, inside and outside City, was overwhelmingly in support of the legislation?

- Mr. Mayor: Will a Press Release be issued on the Tallahassee trip and meetings with Legislators and lobbyists???? Or will there be silence like there was on the City Council/Administration OUC trip last fall where we are still waiting for the City to submit its questions in writing to OUC????? Customers promptly got the questions and OUC answers from Mr. Heady from his trip the day before to OUC, a trip which he paid for himself!
- Mr. Daige: Did you record the meetings and conversations on the recent Tallahassee trip and meetings as you do in meetings in Vero Beach???? If not, why not? If so, are they available to the public????
- Mr. Abel: You stated in the 3/23 article that “the City was opposed to the Mayfield legislation.” Who decided that and who did City officials contact regarding the City’s opposition to the proposed legislation???? What instructions did the City give to its lobbyists, e.g., FMEA and FL League of Cities, regarding what stance they should take on the Mayfield Local legislation? Did you or City representatives contact Rep. Hukill and/or her local

municipal electric utility, New Smyrna Beach, to oppose the Mayfield legislation?

- Mr. White: Is this the openness and transparency in government that you believe the City voters and electric customers want and deserve? Hasn't the City Council and Administration learned from the adverse reaction of City voters and electric customers to the secrecy and evasions of openness in government operations that the City participated in, and for which the City received such widespread critical reactions on the OUC contract, from both City voters and electric customers?
- "FMEA Mission Statement # IV. Promoting a positive image and enhancing public confidence in municipal electric utilities." Legislative & regulatory - "No other type of utility invites as much public input or operates in such an open, democratic manner." **WHERE WERE THE OPEN PUBLIC HEARINGS BY THE CITY ON THE CITY POSITION TO OPPOSE THE MAYFIELD LEGISLATION?** "Open, accessible, governance is one reason that municipals are also known as "public power" utilities. Therefore, one major focus of public power's legislative efforts is to help communities maintain local control. We believe that local communities can best determine their own needs, and that state and federal legislation should support communities' independence, not undermine their infrastructure." FMEA doesn't practice this in its intrusion in Vero's customers' legislative desires as expressed at the State Delegation meeting, only to its dues paying member, the City! The City doesn't

practice this either since it does not engage in openness, whether it is the OUC contract or opposition to both the 2008 Stan Mayfield legislation (and the City's infamous recount of customers contrary to its audited financial statements or PSC reports) or the 2010 Debbie Mayfield legislation!

- What was the cost of the trip for the 5 participants to Tallahassee and to which account did the cost get charged? If to a utility account, then I recommend that it be charged to the City Manager's account instead, since it is likely that most customers supported the Mayfield legislation!
- I understand that a citizen or customer can propose a resolution to the City Council. Therefore, I propose that the City immediately:
 1. Stop paying \$35,000+ annual dues and other payments to the Florida Municipal Electric Association (FMEA) and instead reduce our electric rates!
 2. Stop paying \$1,800+ annual dues and other amounts to the Florida League of Cities.
 3. Require that City officials report to the public, and request approval of a City Council super majority in advance, for travel that City Council Members or non-utility City staff propose to take at a utility systems expense and for hiring utility consultants for the City. This would be a limitation on the City Manager's current authority to approve contracts without Council approval since that authority has been used in the past to hire consultants without RFPs.

- The City has experienced a continuing pattern and practice of mismanagement of its utilities over a number of years by the City Councils and Administrations. It appears to be time for the City to cut its losses, and the last election was a beginning. The City has a Vision Plan.

Unfortunately, it doesn't have a Vision for the City Government structure, management, or what services the City should provide that are efficient and effective, particularly with regard to its utilities.

- In spite of critical City utility and finance problems, Utility and Finance Commission meetings are not called, or are cancelled, because the City Council and Administration doesn't maximize their use for the benefit of the City, taxpayers, and voters.

Thank you.

Meetings, Seminars and Events Attended: 4-20-2010
Submitted by Councilmember Ken Daige

- 4-6-2010 Downtown Dine and Design Stroll.
Very well attended.
- Met with: City Manager Gabbard on the following:
-Maintenance of city right-of-ways
-Re-striping of crosswalks and parking areas
-Communication break-down between
local restaurant and IRC Building Dept.
- 4-7-2010 Treasure Coast Council of Local Governments:
Presentation of Digital Arts company.
- 4-13-2010 Met with Daniel Fourmont and Maria Kovachev
of Vero Beach Mainstreet concerning 2010 Goals.
Audio recording and minutes are on file and attached.
- 4-15&16-2010. Attended Finance and Tax Seminar:
Funded in part by Nabors, Giblin & Nickerson
Attorneys at Law.
Books on File.
Course outline attached.
- 4-17-2010 Attended evening portion of the
2010 Hibiscus Festival. Kudos to all involved.
- 4-20-2010 Attended morning secession of the
IRC Board of County Commission Meeting.
Found information on Brownfield Designations
and Property Casualty Insurance informative.



4-1A)
OFFICE OF THE CITY ATTORNEY

MEMORANDUM

To: Mayor Sawnick and Members of the City Council
From: Peggy Lyon, Assistant City Attorney *PL*
Subject: Veterans Memorial Island Sanctuary Resolution
Date: April 7, 2010

At its April 7, 2010 meeting, the Veterans Memorial Island Sanctuary Advisory Committee voted to recommend the attached Resolution to the City Council for its review. The Resolution adds additional area lying immediately east of the Veterans Memorial Island Sanctuary to the oversight of the Committee as it applies to memorials and plaques at the entrance to the Island Sanctuary. The Committee recommends approval.

RESOLUTION NO. 2010 - _____

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, REPEALING AND REPLACING RESOLUTION 2008-30, AND AMENDING THE VETERANS MEMORIAL ISLAND SANCTUARY AUTHORIZED USES AND MEMORIALS TO ADD ADDITIONAL AREA IMMEDIATELY EAST OF THE VETERANS MEMORIAL ISLAND SANCTUARY TO EXISTING COMMITTEE RULES REGARDING MEMORIALS AND PLAQUES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Resolution No. 2008-30 provides for rules and regulations pertaining to Veterans Memorial Island Sanctuary with the goal of creating a quiet haven for reflection on the sacrifices made by the men and women in the Armed Forces of our Country, and as a memorial to Indian River County's military heroes, and

WHEREAS, at its March 3, 2010 Committee meeting, the Veterans Memorial Island Sanctuary Committee voted to recommend adding the area immediately east of the Veterans Memorial Island Sanctuary to the existing Committee's rules and policies regarding memorials and plaques. This area includes the bridge leading to the Sanctuary and the entry area immediately east of the bridge, including the traffic circle and its contents; and

WHEREAS, the City Council of Vero Beach finds that adding Committee oversight over the additional areas as depicted in the map attached to Attachment A to this Resolution will serve to further preserve and ensure the Sanctuary as a quiet haven for reflection on the sacrifices made by the men and women in the Armed Forces of our Country,

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

Section 1. Veterans Memorial Island Sanctuary Authorized Uses and Memorials.

In accordance with Section 54-31(e) of the City of Vero Beach Code of Ordinances, the amended rules and procedures pertaining to the Veterans Memorial Island Sanctuary, as shown in Attachment "A" attached hereto and incorporated by this reference, are hereby adopted:

SEE ATTACHED ATTACHMENT "A"

Veterans Memorial Island Sanctuary Authorized Uses and Memorials

Section 1. Repeal and Replacement.

Resolution No. 2008-30 is hereby repealed and replaced by this Resolution No. 2010-

_____.

Section 2. Effective date.

This Resolution shall become effective upon adoption.

This Resolution was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____, 2010, by the following vote:

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

ATTEST:

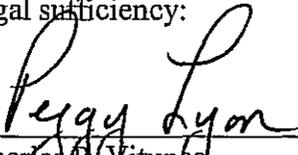
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

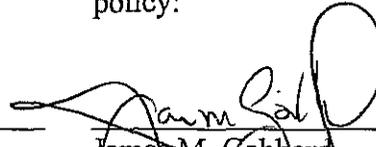
Kevin Sawnick
Mayor

Approved as to form and
legal sufficiency:

Approved as conforming to municipal
policy:

fm


Charles P. Vitunac
City Attorney



James M. Grabbard
City Manager

THIS INSTRUMENT PREPARED BY THE
OFFICE OF THE CITY ATTORNEY
CITY OF VERO BEACH
PO BOX 1389
VERO BEACH, FL 32961-1389

ATTACHMENT "A"

VETERANS MEMORIAL ISLAND SANCTUARY AUTHORIZED USES AND MEMORIALS

The new Veterans Memorial Island Sanctuary Advisory Committee has had several meetings to review previous policies and to record suggested changes.

The following is a summary of discussions and general agreement on the following items:

*The following asterisked rules and policies adopted by the Veterans Memorial Island Sanctuary Advisory Committee and the City Council of the City of Vero Beach regarding "Memorials," "Individual Memorials," "Memorials to Branches of Service," and "Plaques and Memorials" shall be in full force and effect on the Veterans Memorial Island Sanctuary, on the bridge leading to the Sanctuary, and on the entry area immediately east of the bridge, including the traffic circle and its contents. The rules and policies adopted by the Veterans Memorial Island Sanctuary Advisory Committee and the City Council of the City of Vero Beach regarding "Uses" are expressly limited to the Veterans Memorial Island Sanctuary. See attached map.

*MEMORIALS

Veterans Memorial Island was created as a quiet haven for reflection on the sacrifices made by the men and women in the Armed Forces of our Country.

It shall contain memorials to the men and women of Indian River County who died in combat while defending our Country.

All memorials shall be consistent with the Master Plan of Memorial Island and no development shall occur that is not consistent with that plan.

All work shall be implemented by the Public Works and Engineering Department of the City of Vero Beach after approval of the Vero Beach City Council with recommendations from the Veterans Memorial Island Sanctuary Advisory Committee and the Veterans Council of Indian River County.

The Master Plan shall allow for the erection of monuments commemorating the branches of the United States Armed Services, i.e. the Army, the Navy, the Air Force, the Marines, and the Coast Guard. Any veteran who died in a combat operation and who was a resident of Indian River County at the time of his or her initial entry into one of the services shall be eligible for recognition. Documentation for these memorials shall have been submitted to the City from the Veterans Council of Indian River County and the Veterans Memorial Island Sanctuary Committee.

*INDIVIDUAL MEMORIALS

Memorial plaques for deceased Veterans shall be consistent in size and design of the existing plaques and shall contain only name, rank, branch of service, date of birth and date of death.

Documentation of such memorial plaques shall be approved by the City Council with recommendation from the Veterans Council and the Veterans Memorial Island Sanctuary Advisory Committee.

No other individual memorials shall be allowed.

***MEMORIALS TO "BRANCHES OF SERVICE"**

Such memorials shall be allowed if they are consistent with the existing "branch of service" memorials and after verification of the Veterans Council, recommendation from the Veterans Memorial Island Sanctuary Advisory Committee, and approved by the Vero Beach City Council.

***PLAQUES AND MEMORIALS**

No plaques shall be allowed on any memorial designating sponsorship of individuals or organizations except those pertaining to the Veterans Organization. Recognition of contributions may be included either written or verbally at the dedication ceremony.

USES

Since the Sanctuary was created for quiet contemplation, all uses must be in keeping with the purpose and intent of a Veterans Sanctuary.

The Vero Beach City Manager permits all uses that are appropriate for the Island per City Ordinance.

General recreational activities are not permitted. The primary use is for and by veteran's organizations, memorial services, meditation by the public and other civil services that the City Manager approves.

Private memorial services held on Veterans Memorial Island Sanctuary shall be limited to services for United States veterans for whom a DD214 form, or equivalent, has been provided to the City of Vero Beach Recreation Department and verified by Indian River County Veterans' Service Office. Scattering of cremains of such veterans is permitted in the waters surrounding the Island, however cremains shall not be scattered on the Island.

It is suggested by the Veterans Memorial Island Sanctuary Advisory Committee that the following uses are not permitted on Veterans Memorial Island Sanctuary:

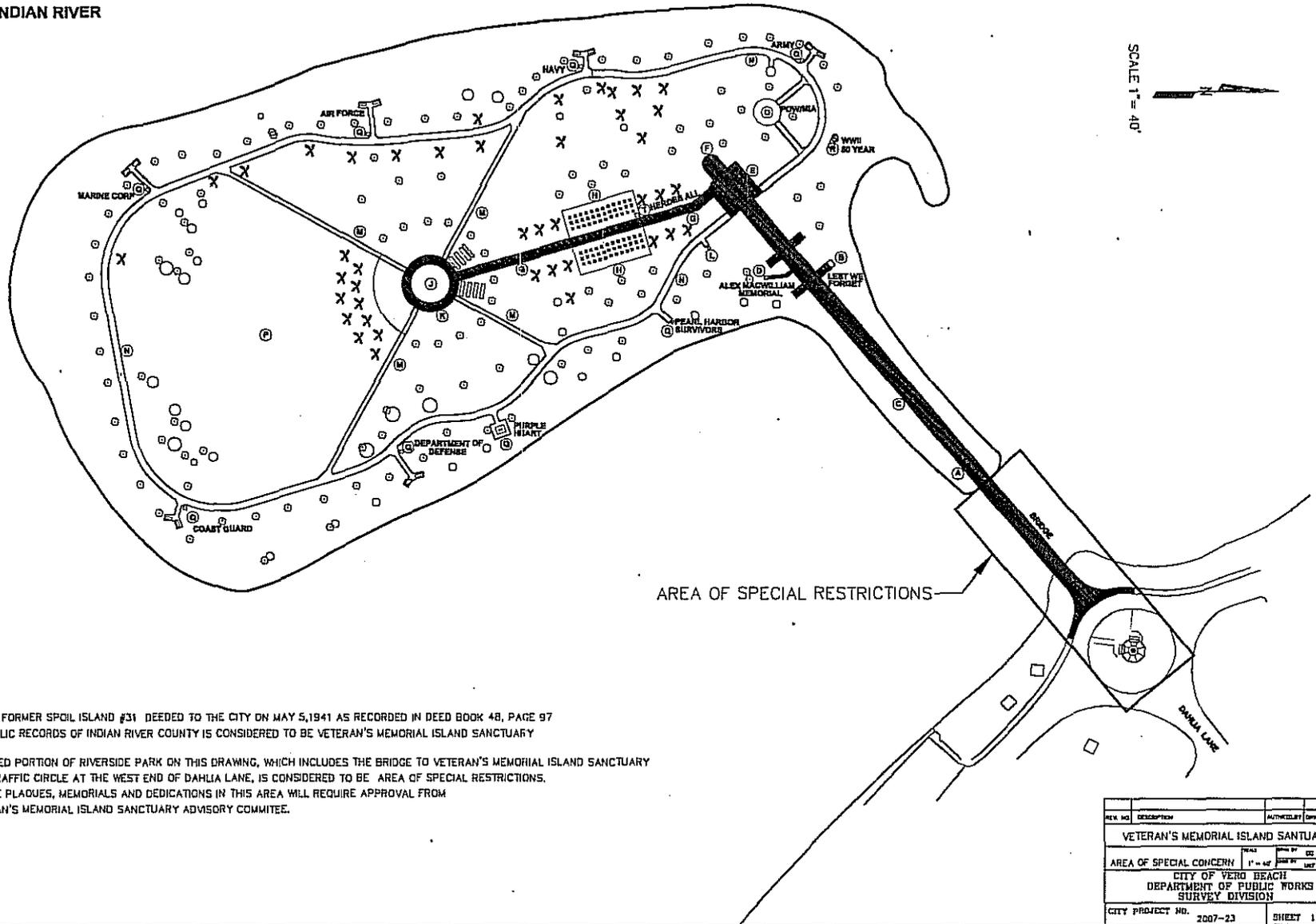
1. Weddings
2. Demonstrations, Rallies or Political motivated gatherings
3. Sports events
4. Band Concerts: except those used for military celebrations or recognized holidays of special National or local significance in which patriotic music shall predominate
5. Overnight Camping
6. Alcohol Beverages
7. Skateboards, Motor Scooters, Bikes, Skates
8. Boats
9. Dogs, except those used for handicapped assistance
10. Charge for Admission to the Island
11. Kite flying
12. Fishing
13. Fundraising events

Helen Glenn, Chairman

hg/sp

VETERANS MEMORIAL ISLAND SANCTUARY

INDIAN RIVER



SCALE 1" = 40'

NOTES: ALL OF THE FORMER SPOIL ISLAND #31 DEEDED TO THE CITY ON MAY 5, 1941 AS RECORDED IN DEED BOOK 48, PAGE 97 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY IS CONSIDERED TO BE VETERAN'S MEMORIAL ISLAND SANCTUARY

THE OUTLINED PORTION OF RIVERSIDE PARK ON THIS DRAWING, WHICH INCLUDES THE BRIDGE TO VETERAN'S MEMORIAL ISLAND SANCTUARY AND THE TRAFFIC CIRCLE AT THE WEST END OF DAHLIA LANE, IS CONSIDERED TO BE AREA OF SPECIAL RESTRICTIONS. ALL FUTURE PLAQUES, MEMORIALS AND DEDICATIONS IN THIS AREA WILL REQUIRE APPROVAL FROM THE VETERAN'S MEMORIAL ISLAND SANCTUARY ADVISORY COMMITTEE.

REV. NO.	DESCRIPTION	AUTHORITY	DATE
VETERAN'S MEMORIAL ISLAND SANCTUARY			
AREA OF SPECIAL CONCERN		SCALE: 1" = 40'	DATE: 01/2010
CITY OF VERO BEACH DEPARTMENT OF PUBLIC WORKS SURVEY DIVISION			
CITY PROJECT NO. 2007-23			SHEET 1 OF 1

5-A)

DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager
THROUGH: Charles Vitunac, City Attorney *CV*
FROM: Timothy J. McGarry, AICP *TJM*
Director of Planning and Development
SUBJECT: **Moratorium Ordinance on Pain Clinics**
DATE: April 13, 2010

Per the City Council directive, attached for First Reading is a proposed ordinance establishing a 180 day moratorium on the issuance of development orders pertaining to the establishment of pain clinics and pain management clinics in the City of Vero Beach. The ordinance will require two public hearings.

The ordinance is based on similar ordinances recently enacted by local governments in Broward, Martin, and Palm Beach counties. The ordinance is intended to prevent such clinics being established in the City of Vero Beach until such time as the City staff has had the opportunity to review possible measure for regulating these clinics and prepare appropriate regulations for consideration by the City Council.

The City Council should be aware that Senate Bill 2272, currently moving through the Florida Legislature, may place additional regulatory and reporting requirements on such clinics. This bill, once enacted, will be evaluated by staff for guidance in determining the appropriate regulatory option to pursue.

TJM/uf
Attachment

ORDINANCE NO. 2010-__

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

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

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

Mayor Kevin Sawnick

Yes **No**

Vice Mayor Sabin C. Abell

Yes **No**

Councilmember Thomas P. White

Yes **No**

Councilmember Brian Heady

Yes **No**

Councilmember Kenneth J. Daige

Yes **No**

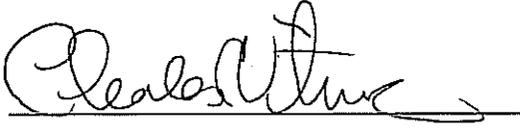
ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

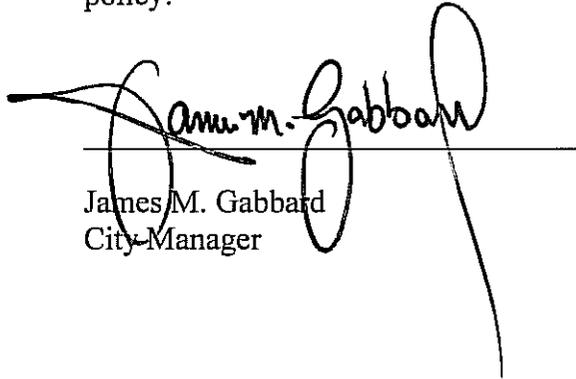
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:



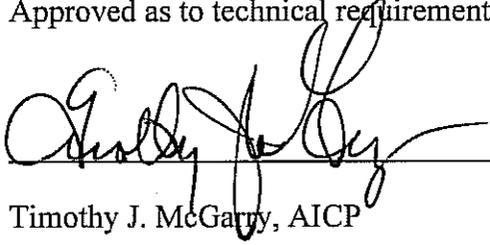
Charles P. Vitunac
City Attorney

Approved as conforming to municipal
policy:



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

COUNCIL AGENDA REPORT
MEETING OF APRIL 20, 2010

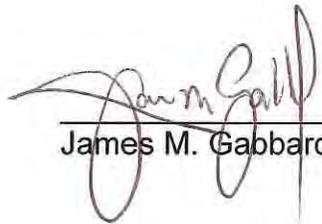
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: April 7, 2010

**SUBJECT: NAME CHANGE OF 14TH AVENUE TO MAIN STREET – REQUESTED
BY MAIN STREET VERO BEACH**

Main Street Vero Beach has requested that the City Council consider renaming 14th Avenue "Main Street". Please find an attached letter from the President and Vice President of Main Street Vero Beach.



James M. Gabbard

JMG:jav
Attachment

N:\AGENDA\CITYMANAGER\2010\14TH AVE NAME CHANGE REQUEST - MSVB.DOC



March 10, 2010

James Gabbard, City Manager
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960

RE: Main Street Vero Beach resolution

Dear Jim,

The Main Street Vero Beach board of directors wishes to propose that 14th Avenue in downtown Vero Beach be renamed Main Street from 16th Street to the Historic Train Station on 23rd Street. The MSVB voted unanimously at its March 9, 2010 meeting to make that recommendation to the City of Vero Beach.

MSVB believes that historic 14th Avenue is the traditional “main street” of downtown. The renaming would more accurately describe the street and also remind the community of the Main Street Vero Beach mission.

Respectfully yours,

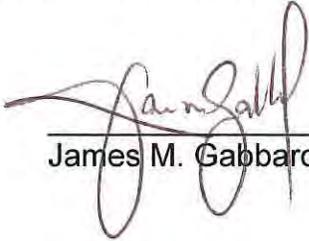
Daniel Fourmont
MSVB President

Peter Jones
MSVB Vice-President

COUNCIL AGENDA REPORT
MEETING OF APRIL 20, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: April 7, 2010
SUBJECT: ELECTRIC UTILITY BRIEFING – JOHN LEE

Mr. Lee will update the City Council on the status of our system.


James M. Gabbard

JMG:jav

N:\AGENDA\ELECTRICUTILITY\ELECTRIC UTILITY BRIEFING - 4.20.10.DOC

Mayor Sawnick 

Under Old Business:

Item

1. Councilmember's time allotment under his/her matters
- ~~2. Items pulled from consent agenda~~
2. Items on agenda under new business and old business
(Back up attached)

MEMORANDUM

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Sabin C. Abell
Vice Mayor *Sabin C. Abell*

DATE: March 15, 2010

SUBJECT: March 16, 2010 City Council Meeting Item –
Discuss Efficiencies for Vero Beach Council Meetings

After much thought, I have come up with some suggestions that I feel will help make our Council meetings run more efficiently.

- A) Meetings are not allowed to run for more than three (3) hours – four (4) hours max
- B) Confine questions to the matter under discussion
- C) Councilmembers may have up to two (2) items on the agenda under their matters and may be given up to five (5) minutes for presentation and discussion on each item
- D) Limit Councilmembers speaking on an agenda item to five (5) minutes
- E) Per the City Attorney, any item requiring action of the City Council should be placed under New Business and not under City Council Matters
- F) If a Councilmember wishes to remove an item from the “consent agenda”, the Councilmember must do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. If an item is removed, it will be heard at the time that it is removed from the consent agenda.

I feel by enacting these items into policy our Council meetings will run more efficiently and on a professional basis.

SA:tv

SUBJECT TO CHANGE

AGENDA

CITY MANAGER'S OFFICE

APRIL 20, 2010

Consent Agenda

1. Regular City Council Minutes – April 2, 2010
2. Habitat Cracker Hoedown
3. Monthly Capital Projects' Status Reports

City Manager's Matters

- A) Name Change of 14th Avenue to Main Street – Requested by Main Street Vero Beach
- B) Electric Utility Briefing – John Lee