

5-A)

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, RELATED TO ORDINANCE NO. 520 ADOPTED BY THE TOWN OF INDIAN RIVER SHORES, FLORIDA, ATTEMPTING TO REGULATE ELECTRIC UTILITIES PROVIDING SERVICE WITHIN THE TOWN; INITIATING GOVERNMENTAL CONFLICT RESOLUTION PROCEDURES WITH THE TOWN OF INDIAN RIVER SHORES REGARDING SAID ORDINANCE PURSUANT TO THE GOVERNMENTAL CONFLICT RESOLUTION ACT, CHAPTER 164, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach ("City") has operated its electric utility system since 1920, providing safe, adequate, and reliable service for nearly a century to customers located both inside and outside the City's limits, including service to customers located in the Town of Indian River Shores ("Town") since the Town's incorporation in 1953; and

WHEREAS, the Town has filed numerous legal actions attempting to challenge Vero Beach's right to operate its electric utility system in the Town and to continue to serve Vero Beach's electric customers within the Town; and

WHEREAS, the City's electric utility and its customers have incurred, and continue to incur, significant legal expenses in defending against such challenges, which defensive actions not only protect the interests of the City's electric utility system but also protect the interests of the approximately 32,000 City electric customers who are located outside Indian River Shores, where approximately 3,000 of the utility's electric customers are located; and

WHEREAS, the Town has also incurred, and continues to incur significant legal expenses in pursuing its legal actions against the City; and

WHEREAS, in September 2015, the Town adopted its Ordinance No. 520, entitled "AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, PROVIDING FOR THE REGULATION OF ELECTRIC UTILITIES SERVING WITHIN THE TOWN WHOSE RATES AND REVENUE REQUIREMENTS ARE NOT REGULATED BY THE FLORIDA PUBLIC SERVICE COMMISSION; PROVIDING FOR SEVERABILITY OR REPEAL OF CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE;" and

WHEREAS, said Ordinance No. 520 declares the Town's intent to attempt to regulate the rates and service of Vero Beach's electric utility system, beginning in November 2016; and

WHEREAS, having analyzed said Ordinance No. 520, the City believes that all, or nearly all, of the regulations and regulatory activities that the Town would attempt to implement, carry out, and enforce pursuant to said Ordinance are either preempted by applicable provisions of the Florida Statutes, or otherwise unlawful pursuant to controlling decisions of the courts of Florida or of the United States, or both preempted and unlawful; and

WHEREAS, the added costs to the City’s electric utility, the City’s electric customers in the Town, and the Town of participating in the regulatory proceedings envisioned by the Town’s Ordinance No. 520 would be substantial; and

WHEREAS, the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes (“Act”), encourages local government entities, including the City and the Town, to utilize the dispute resolution procedures set forth in that Act to resolve conflicts that may occur at any time between governmental entities; and

WHEREAS, the City desires to resolve the impending conflicts summarized above as efficiently and cost-effectively as possible, through negotiation and resolution rather than through costly litigation; and

WHEREAS, the City believes that it is most reasonable, prudent, and efficient to utilize the dispute resolution procedures pursuant to the Act to resolve the impending disputes described above; and

WHEREAS, the Act requires that the governing body of a governmental entity that initiates conflict resolution procedures pursuant to the Act shall do so by passage of a resolution by such body’s members, and that the governing body give notice to the governmental entity with which it has a dispute;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vero Beach, Florida, that:

Section 1. Adoption of “WHEREAS” Clauses.

The foregoing “WHEREAS” clauses are hereby adopted and incorporated by reference as part of this Resolution.

Section 2. Initiation of Conflict Resolution Procedures.

The City of Vero Beach hereby initiates the conflict resolution procedures pursuant to Chapter 164, Florida Statutes, regarding the City’s opposition to the Town’s Ordinance No. 520.

Section 3. Authorization for City Manager to Deliver Resolution to the Town of Indian River Shores.

Pursuant to Section 164.1052(1), Florida Statutes, the City Manager is authorized and directed to send to the chief administrator of the Town of Indian River Shores, within five (5) days of the adoption of this Resolution, a certified copy of the Resolution and a letter stating (a) the nature of the conflict as described in the foregoing “WHEREAS” clauses, (b) the reasons for initiating the conflict resolution process, also as described in the foregoing “WHEREAS” clauses, (c) a proposed date and location for the conflict assessment meeting provided for in the Act, and (d) suggestions regarding the officials who should be present at the conflict assessment meeting. The subject letter and

certified copy of this Resolution shall be sent via certified United States mail, return receipt requested.

Section 4. Conflict and Severability.

The provisions of this Resolution shall control over those provisions of previously adopted resolutions in conflict herewith. If any provision of this Resolution 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 Resolution.

Section 5. Effective Date.

This Resolution shall become effective upon its adoption by the City Council.

This Resolution was heard on the ___ day of _____ 2016, after which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote of the City Council:

Mayor Jay Kramer	_____
Vice-Mayor Randolph B. Old	_____
Councilmember Pilar E. Turner	_____
Councilmember Richard G. Winger	_____
Councilmember Harry Howle III	_____

ATTEST:

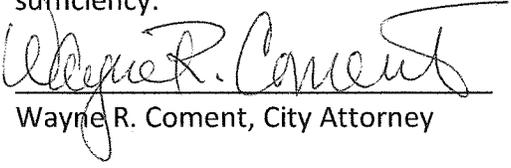
CITY COUNCIL
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock, City Clerk

Jay Kramer, Mayor

[Seal]

Approved as to form and legal sufficiency:


Wayne R. Coment, City Attorney

Approved as conforming to municipal policy:


James R. O'Connor, City Manager