

**CITY OF VERO BEACH, FLORIDA
MAY 18, 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 – Father Richard Murphy/Holy Cross Catholic Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
 - 1. Proclamation to be given to Mr. James Sammons – Requested by Councilmember Ken Daige
 - 2. Memorial Day – May 31, 2010
- C. Public Comment
- D. Adoption of Consent Agenda
 - 1. Regular City Council Minutes – May 4, 2010
 - 2. Regular City Council Minutes – April 20, 2010
 - 3. Fuel Oil Storage Tanks/Plant Stack Painting – Final Payment
 - 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 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.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City Council of the City of Vero Beach, Florida, expressing its opposition to Offshore Oil Drilling in Florida Waters as having a deleterious impact on Florida's Environmental and Economic Resources; directing the City Clerk to transmit a copy of this Resolution to various State and Federal Officials; 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, requested by Vero Property Investment, LLC, to amend the Comprehensive Plan Future Land Use Map by Changing the Land Use Designation from C, Commercial (up to 15 Dwelling Units/Acre) to RH, Residential High (up to 15 Dwelling Units/Acre) for the property generally located East of the Northeast corner of the Intersection of 21st Street (US Highway 1) and 10th Avenue, including all of the replat of Henning's Subdivision that lies North of 21st Street (US Highway 1) and a portion of Block 1, Citrus Park, containing 1.76 acres, more or less, and providing for an Effective Date.
- B) An Ordinance of the City of Vero Beach, Florida, requested by Vero Property Investment, LLC, to amend the Official Zoning Map by Changing the Zoning Designation from C-1, Highway Oriented Commercial to RM-10/12 Medium and High Density Multiple-Family Residential District for the property generally located East of the Northeast corner of the Intersection of 21st Street (US Highway 1) and 10th Avenue, including all of the replat of Henning's Subdivision that lies North of 21st Street (US Highway 1) and a portion of Block 1, Citrus park, containing 1.76 acres, more or less, and providing for an effective date.

6. CITY CLERK'S MATTERS

7. CITY MANAGER'S MATTERS

- A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit
- B) Strategic Land Purchase
- C) Request for Council Approval – Electric T&D Reorganization
- D) Internship Program Policy

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

A. Old Business

1. [Times of City Council Meetings – Requested by Vice Mayor Abell](#)
2. Reconsideration of date for presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady
3. Still waiting for written answers from City Manager – Requested by Councilmember Heady
4. OUC Contract – Requested by Councilmember Heady
5. 50MM penalty – Requested by Councilmember Heady
6. November Elections – Requested by Councilmember Heady
7. Debate on Sale of Electric – Requested by Councilmember Heady
8. 8/12/08 to be played and discussion to follow – Requested by Councilmember Heady
9. Federal Lawsuit – Requested by Councilmember Heady
10. Honest Services Fraud – Requested by Councilmember Heady
11. Golf Course – Requested by Councilmember Heady

B. New Business

1. [Wreath Placement Ceremony – Requested by Councilmember Daige](#)
2. Settlement of Lawsuit – Requested by Councilmember Heady
3. Water and Sewer Discussion – Requested by Councilmember Heady
4. [Policy for “Old Business” and “New Business” on Agenda – Requested by Councilmember Daige](#)

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
 - A) Public Business in the public eye
 - B) Liars, Cheats and Thieves
 - C) Bad info, bad decisions, being prepared
 - D) Correspondence

- 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 MAY 18, 2010

TO: The Honorable Mayor and Members of the City Council

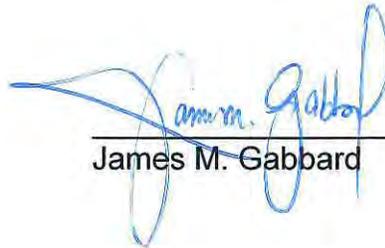
FROM: James M. Gabbard, City Manager

DATE: May 7, 2009

SUBJECT: FUEL OIL STORAGE TANKS/PLANT STACK PAINTING – FINAL PAYMENT

Attached is a memorandum from Jim Stevens, dated May 5, 2010, which provides a recommendation on the above-referenced subject.

It is the recommendation of the City Manager's Office that Council approve Final Payment to Turner Coatings, Inc., for the Fuel Oil Storage Tanks and Plant Stack Painting Project, in the amount of \$13,050.00. Funding will be from Account No. 403.5000.531.608316.


James M. Gabbard

:jav
Attachments

xc: Jim Stevens
John Lee
Stephen Maillet

MEMO
VERO BEACH MUNICIPAL POWER PLANT



DATE: May 5, 2010

TO: James Gabbard
City Manager

THROUGH: John Lee *JTL - 5/5/2010*
Acting Utilities Director

FROM: Jim Stevens *[Signature]*
Director of Power Resources

SUBJECT: Fuel Oil Storage Tanks / Plant Stack Painting

The Fuel Oil Storage Tanks / Plant Stack Painting capital budget project is complete.

Staff recommends that the final payment of \$13,050.00 for contract number 1475 to Turner Coatings Inc. be put on the City Council agenda for the May 18, 2010 meeting. Funds for the above referenced are in capital budget project Unit Fuel Oil Storage Tanks / Plant Stack Painting Department 5000 account number 403.5000.531.608316.

Please advise if there are any questions concerning this matter.

CITY OF VERO BEACH POWER RESOURCES DEPARTMENT

WAIVER AND RELEASE OF ALL CLAIMS UPON FINAL PAYMENT

Fuel Oil Storage Tanks and
Project: Plant Stack Painting
Date of Contract: August 31st 2009

Project No. Bid 500-08/PSW
Contract No. 1475

The undersigned contractor for the above-referenced contract, in consideration of final payment in the sum of \$ 13,050.00, the receipt and sufficiency of which is acknowledged, hereby waives and releases any and all claims and right to make any claim for any and all labor, services, materials, and equipment furnished to the City of Vero Beach ("City") and arising under or by virtue of the above-referenced contract and changes thereto and hereby agrees to indemnify and hold harmless the City from any and all claims of any subcontractor having an interest in the contract. The term "subcontractor," as used herein, shall include any and all persons and firms furnishing labor, materials, services, or equipment incorporated into or supplied for the work under the contract, stockpiled for the project, or arising under any equipment-rental agreements.

This waiver and release of all claims is executed by the contractor for itself and its representatives, assigns and successors and covers all past and existing claims for work under the contract. In executing this waiver and release of all claims, I represent and certify to the City that I possess the authority and capacity to execute this waiver and release of all claims for the contractor, its representatives, assigns and successors, and to thereby bind them, and I agree to personally indemnify and hold harmless the City from any and all liabilities and costs, including attorney's fees, as may be imposed upon or incurred by the City because of any defect in or lack of my authority or legal capacity to execute this waiver and release of all claims for the contractor, its representatives, assigns and successors.

Turner Coatings Inc
Contractor
By: [Signature]
Print Name: Sandy Turner
Title: Vice President

STATE OF FLORIDA
COUNTY OF Polk

Sworn to and subscribed before me this 4th day of May, 2010, by Sandy Turner, who is personally known to me OR produced _____ as identification.

[Signature]
Notary Public
Print Name:
My Commission Expires:



1865 Industrial Park Road
Mulberry Florida 33860



(863) 425-4563
(863) 425-5260 Fax

Fax Cover Sheet

To: Tom Clark Fax #: 472-978-5090

Company: Vero Pages Incl/ Cover: 3

From: Bob / Ron / Sandy Robbie/Rhenda Date: 5-4-10

Reference: Release of Liens

Comments: Releases from Turner Coatings,
and for your records, a Release
from the paint supplier FCI Dube.
Thank you, Sandy Turner



Industrial and Heavy Commercial Painting Contractor
Sandblasting - Painting - Specialty Coatings and
linings - Pressure Cleaning



Proud To Be American



Paints

ICI Paints
Stores Credit Department
15885 W Sprague Road
Strongsville, OH 44136
Phone: 440/826-5100

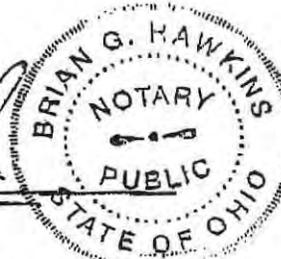
**UNCONDITIONAL FINAL
WAIVER AND RELEASE OF LIEN**

The undersigned lienor, in consideration of the final payment in the amount of
\$ 10.00 hereby waives and releases its lien right to claim a lien for labor, services or
materials furnished to Turner Coatings Inc. on the job of PJW Power Plant to
the following property: 100 17th Street, Vero Beach, FL 32961

Dated on Tuesday, March 09, 2010
The Glidden Company dba ICI Paints

By: *Ethel McHenry*
Title: Credit Supervisor

Brian G. Hawkins
(Notary) **BRIAN G. HAWKINS**
Notary Public, State of Ohio
My Commission Expires Dec. 30, 2011



**NOTE: This is a statutory form prescribed by Section 713.20, Florida statutes (1996)
Effective October 1, 1996. A person may not require a lienor to furnish a waiver or release of lien
that is
different from the statutory form, 663**

Representing the Brands:



Dulux



MEMORANDUM

TO: Rob Bolton, Monte Falls, Jerry Gilbert, John Lee, Stephen Maillet, Tim McGarry, Bill Messersmith, R.B. Sloan, and Jim Stevens

FROM: James M. Gabbard, City Manager

DATE: May 19, 2009

SUBJECT: COUNCIL ACTION – MEETING OF MAY 19, 2009

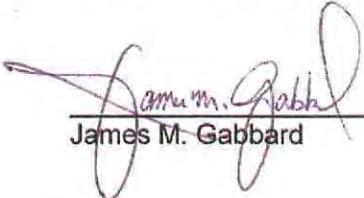
During the City Council Meeting of May 19, 2009, the following items were approved unless otherwise noted:

2.D) Consent Agenda

1. Minutes of Regular City Council Meeting – May 5, 2009
2. Solid Waste Franchise Agreement – J.R. Trucking, Inc., dba AI's Excavating
3. Environmental Systems Corporation (ESC) Data System Maintenance Agreement
4. Request for Approval of Change Order No. 1 to Work Authorization 1305-27 with Morgan and Associates, inc., for Design Services – 30" Reuse Transmission Main along Indian River Blvd.
5. CDM Work Authorization 1303-29 – SRF Facilities Plan/Stimulus Funding
6. Work Authorization for WWTP Pump Station
7. Final Payment Request for Unit 3 and 4 Boiler Evaluations – TesTex, Inc.
8. Unit 4 Static Exciter Final Payment
9. Request for Approval of Change Order No. 1 and Final Payment – Water Treatment Plant RO Concentrate Pipeline and Diffuser – Lucas Marine Construction, LLC
10. Lateral E Canal Stormwater/Pollution Control Facility
11. Solid Waste Franchise Agreement – East Coast Recycling

7. City Manager's Matters

- A) Award of Bid #500-08/PW – Power Plant Fuel Oil Storage Tanks and Plant Stack Painting
- B) SR A1A Median Construction and Landscape Improvements
 1. Recommendation of Award for Construction, Engineering & Inspection (CEI) Services
 2. Recommendation of Award – Contract for Bid No. 0180-09/JV
- C) Briefing on Electric Utility Rates
- D) Discussion of Annexation Policies and Procedures
- E) Vision Implementation Plan Program Update
- F) Agreement for Minor League Baseball (MiLB)
- G) Add-on Item – American Recovery and Reinvestment Act



James M. Gabbard

:jav

COUNCIL AGENDA REPORT
MEETING MAY 18, 2010

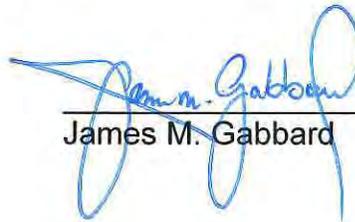
TO: The Honorable Mayor and Members of the City Council

FROM: James M. Gabbard, City Manager

DATE: May 7, 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

FAA personnel have completed their flight tests of new LED-technology PAPI systems provided by 4 different commercial vendors. The tests 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

The new Airport Rescue and Fire Fighting vehicle was delivered on April 14th. Fire fighters completed 4 days of training on the new vehicle, which is now having the airport-required radios installed for use on the airfield. Final payment has been made to the manufacturer, and the project will be closed out in May/June 2010.

Rehabilitate Runway 11L/29R and Taxiway F

A pre-construction meeting was held on April 26, 2010, with the contractor, major sub-contractors, engineer, and airport staff. Safety, security, schedule, project phasing, mobilization, pay procedures, communications, and other items were covered. Notice-to-Proceed will be issued when all contract documents are signed and insurance and bonding is in place.

Airport Operations Facility

Under review. 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

Survey work and professional engineering services for the design phase is nearly complete. Staff anticipates submission of a grant request to FAA on or about June 1, 2010.

Updated 03 MAY 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 5/11/10

NOTES:

Median construction and landscaping are complete.

Punchlist and final clean-up complete.

Preparing final pay request.

*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	\$323,989.54	CONTRACT DAY:	
% OF WORK COMPLETE	100.69%	% OF CONTRACT TIME COMPLETE:	0.00%



13-Apr-10
Completed new landscaped median section



13-Apr-10
New median sections showing brick paver detail

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 5/11/10

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. New piles and end bent caps are in place and deck slabs are set.

River Drive utility relocation is on hold for FDEP clearance to begin demolition.

Traffic on River Drive has been transferred to the new bridge section.

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	\$1,099,906.79	CONTRACT DAY:	148
% OF WORK COMPLETE	66.60%	% OF CONTRACT TIME COMPLETE:	164.44%



23-Apr-10

River Drive bridge east side looking south



13-Apr-10

Completed section of 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 5/11/10

NOTES:

Total length of sidewalk for this project is 7,640 linear feet. Approximately 5,900 lf has been constructed

Sidewalk has been completed on the south side of Royal Palm Boulevard.

Sidewalk on the north side of Royal Palm Place was started at the east end at the limits of the FDOT Royal Palms/Indian River Boulevard intersection construction and is complete up to Whipoorwill Lane.

Work will progress westward towards US 1.

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

ORIGINAL BUDGET AMOUNT	\$334,873.60	Percent of Work Complete	75%



12-May-10

Royal Palm Place sidewalk looking east toward FDOT intersection project at Royal Palms/Indian River Blvd.



12-May-10

Royal Palm Place sidewalk

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 5/11/10

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 being assembled by the manufacturer and is scheduled to be installed May 20, 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	\$209,133.20	CONTRACT DAY:	98
% OF WORK COMPLETE	67.43%	% 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 5/11/10

NOTES:

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

The contractor is changing the traffic pattern by closing Royal Palm Boulevard and routing traffic on Royal Palm Place in order to construct new pavement widening on the Royal Palm Blvd leg of this intersection. New signal mast arms have been installed on 3 of 4 legs of the intersection.

Scheduled completion date is July 23, 2010, 7 weather days and 10 day extension for gas main relocation have been 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	163 Days
TOTAL COST OF WORK PERFORMED TO DATE		CONTRACT DAY:	100
% OF WORK COMPLETE		% OF CONTRACT TIME COMPLETE:	61.35%



11-May-10
Preparing to mill existing pavement Royal Palm Blvd and Place



11-May-10
New Signal Mast-arms IR Blvd looking west

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

STATUS REPORT AS OF 5/1/10
CITY OF VERO BEACH DEPARTMENT OF WATER AND SEWER

Prepared By: Jerry A. Gilbert, P.E.
 Consultant: Morgan & Associates
 Contract Date: 11-Dec-09
 Notice to Proceed Date: 19-Jan-10
 Time of Completion: 270 Days
 Scheduled Completion Date: 15-Oct-10

PROJECT NO: 1483
 FOR PERIOD: 4/1/10 - 5/1/10

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 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		\$1,296,048.61	
% OF WORK PAID		48.67%	
TOTAL WORK COMP.		\$1,166,443.75	



Above left two pipelines being constructed simultaneously, and in the same trench. The green pipe is the new force main, the purple pipe is a new re-use water main. Above right, an existing water main in Vero Isles is connected to a new water main. Much of April was spent making connections from the new water main to existing water mains in Vero Isles. The new water main will replace corroded older water mains, increase water pressure and provide enhanced fire service to the neighborhood.

STORAGE RESERVOIR AND INJECTION WELL PUMP STATION

STATUS REPORT AS OF 5/1/10
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: 4/1/10 - 5/1/10

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)	\$791,836.36		
ADJUSTED CONTRACT AMOUNT TO DATE	\$3,486,211.36		
TOTAL COST OF WORK PERFORMED TO DATE	\$1,509,227.92		
% OF WORK PAID	43.29%		
TOTAL WORK COMP.	\$1,358,305.13		



Above left, the Injection Well pump station concrete floor slab and piping risers can be seen in the background. Above right, the booster pump station discharge pipe is being connected to the force main piping, which will send the excess reclaimed water to the new storage reservoir and injection well at the Water Treatment plant site.

WATER TREATMENT PLANT INJECTION WELL SYSTEM

STATUS REPORT AS OF 5/1/10
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:	4/1/10 - 5/1/10
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)	\$28,352.00		
ADJUSTED CONTRACT AMOUNT TO DATE	\$4,712,786.00		
TOTAL COST OF WORK PERFORMED TO DATE	\$3,307,012.00		
% OF WORK PAID	63.15%		
TOTAL WORK COMP.	\$2,976,310.80		



The completed deep injection wellhead is shown in the picture, above left. The monitor well design has been modified by FDEP, to construct a single zone monitor well instead of a dual zone as designed originally. The new design requires an FRP sample tube be installed into the monitor zone (some 1700 feet below ground surface). The work is currently underway, the additional cost is reflected in the change order (above). This project should be completed this month, and is anticipated to be below the original contract amount.

WATER TREATMENT MAINTENANCE BUILDING AND FIELD SERVICES COMPLEX

STATUS REPORT AS OF 5/1/10
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:	4/1/10 - 5/1/10
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	\$789,900.00		
% OF WORK PAID	38.25%		
TOTAL WORK COMP.	\$710,910.00		



Above left, the field services building block and metalwork continues. Above right, the maintenance building shell is complete and interior work has started.

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 who⁵ 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	<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 Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Kenneth J. Daige	<input type="checkbox"/> Yes	<input type="checkbox"/> No

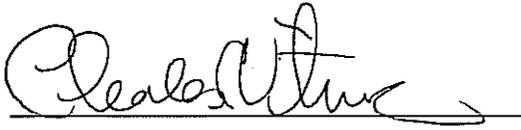
ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

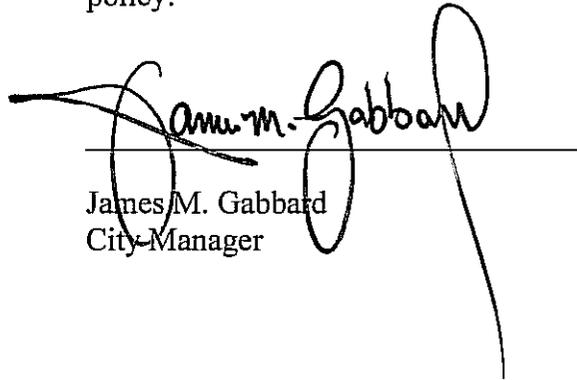
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:



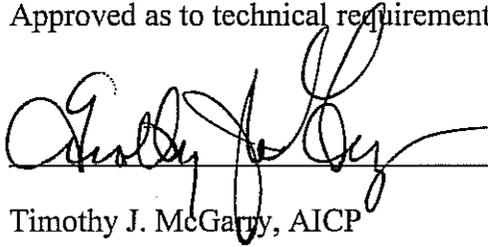
Charles P. Vitunac
City Attorney

Approved as conforming to municipal
policy:



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

4 - A)

RESOLUTION NO. 2010 - ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, EXPRESSING ITS OPPOSITION TO OFFSHORE OIL DRILLING IN FLORIDA WATERS AS HAVING A DELETERIOUS IMPACT ON FLORIDA'S ENVIRONMENTAL AND ECONOMIC RESOURCES; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO VARIOUS STATE AND FEDERAL OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida's clear clean waters, world-class beaches and coral reefs draw millions of visitors each year, supports a \$53 billion tourism industry, a \$14 billion marine industry and a fishing industry that injects more than \$6 billion a year to Florida communities; and

WHEREAS, Florida's tourism industry generated \$13.3 billion in payroll to over 1 million Floridians directly employed in tourism; and

WHEREAS, Florida's tourism industry generated over \$65 billion in 2008 to Florida's economy and the sales tax revenue derived therefrom constitute a significant portion of the State's budget; and

WHEREAS, Florida's leaders from both major political parties have historically recognized the value of our shorelines to our economy; and

WHEREAS, Hurricanes Katrina and Rita resulted in 125 spills from platforms, rigs and pipelines totaling 685,000 gallons of oil lost into the sea; and

WHEREAS, because oil prices are determined on the international market, any impact that offshore drilling in Florida waters might have on the wellhead prices is expected to be insignificant; and

WHEREAS, any oil spill event in the Gulf of Mexico would cause harm to Florida's tourist-based economy and could bring ecological damage to Indian River County's beach by way of the loop current; and

WHEREAS, oil spill events emanating from allowing offshore oil drilling in Florida's waters will significantly jeopardize Florida's pristine waters, world-class beaches, coral reefs, negatively impact the tourist industry and state revenue,

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

1. That the City Council of the City of Vero Beach, Florida hereby expresses its opposition to permitting offshore oil drilling within the waters of the State of Florida.

2. That the City Clerk is hereby directed to provide a copy of this Resolution to Florida Governor Charlie Crist, the State Senate President, the State Speaker of the House, the Indian River County Legislative Delegation to the State of Florida Senate and House of Representatives, the United States Senate for the State of Florida and to Indian River County's Representatives in the United States House of Representative.

3. This Resolution shall become effective on _____, 2010.
This Resolution was heard on the _____ day of _____, 2010, at which time 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
Kenneth J. Daige	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA:

Sign: _____
Print: Tammy K. Vock
Title: City Clerk

Sign: _____
Print: Kevin Sawnick
Title: Mayor

**STATE OF FLORIDA
COUNTY OF INDIAN RIVER**

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by Kevin Sawnick, as Mayor, and attested by Tammy K. Vock, as City Clerk of the City of Vero Beach, Florida. They are personally **known to me** and **did not** take an oath.

NOTARY PUBLIC

[NOTARY SEAL]

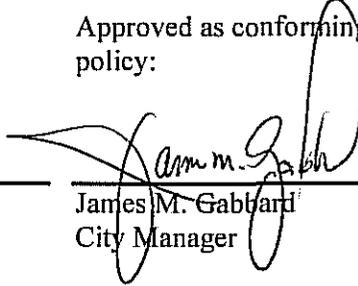
Sign: _____
Print: _____
State of Florida at Large
My Commission Number: _____
My Commission Expires: _____

Approved as to form and legal sufficiency:

Approved as conforming to municipal
policy:



Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

**This document was prepared by
and return to:
Office of the City Attorney
Courthouse Box 40
Post Office Box 1389
Vero Beach, Florida 32961-1389**

**CITY OF VERO BEACH, FLORIDA
MAY 18, 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 (arrived at 6:03 p.m.), present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Father Richard Murphy of Holy Cross Catholic Church.

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 City Clerk requested that item 7-A) “Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit” be pulled off of the agenda and she asked that item 7-E) “Discussion of CCNAC Meeting held on May 17, 2010” be added to the agenda.

Mr. White asked that before they adopt the agenda that comments be made from their newly hired Attorney concerning the civil lawsuit that Mr. Heady has filed, in case there are items on the agenda that he advises them not to talk about.

Mr. Charles Vitunac, City Attorney, stated that their newly hired Attorney, Mr. Randy Brennan, is scheduled to talk under Matters by the Public. However, he said that if it is Council’s wishes he will ask Mr. Brennan to speak at this time.

Mr. Vitunac continued by saying that the City was served with a Federal lawsuit by Mr. Brian Heady about ten days ago. There is a twenty-one day period given to answer the complaint and they have retained Randy Brennan to file a defense for the City. He has been told by the Florida Bar Ethics Hotline that his office cannot be the office representing them since it is a Councilmember suing them and most of the witnesses will be employees from his office.

Mr. Randy Brennan, Attorney, stated that he has been retained by the City to represent them concerning the lawsuit that has been filed by Mr. Heady. He is a licensed attorney in Florida and has been practicing law for twenty six years. He is a Board Certified Civil Trial Attorney, as well as a Certified Mediator. He has taken a look at the lawsuit that Mr. Vitunac provided to him and his firm is preparing a response, which will be filed in the appropriate time. He feels that the City has a very good defense concerning the case. He told Council that his thoughts, as the Attorney, regarding this matter would be not to discuss any of the matters that are subject to the lawsuit unless it is at the appropriate time. The matter is in litigation now and the City has not yet responded to the lawsuit. He would not want the City to compromise their position in any way by making inappropriate comments without at least having the advice of Counsel. He said if Council has any questions concerning the lawsuit his point of contact will be through the City Attorney's office. He asked Council if they had any questions concerning the case of his representation for the City.

Mr. White asked if they defend this lawsuit and the City should prevail will they be requesting that their legal fees be paid by the plaintiff.

Mr. Brennan felt that was an issue that should be pursued.

Mr. Heady said that they could make this whole thing easy and save the taxpayers money if the City Council will answer his questions. He said then the lawsuit will go away.

Mayor Sawnick returned to the adoption of the agenda and asked if there were any more changes to the agenda.

Mr. Abell made a motion to delete items 9A-2), 3), 4), 5), 6), 7), 8), 9), 10), 11) and 9B-2) and 3) from the agenda. The reason is because some of them are repetitive, previously addressed, there is no backup material, and as their Attorney Randy Brennan just said some of these items may have something to do with the lawsuit. Mr. White seconded the motion.

Mr. Heady stated that the reason for the removal as stated by Mr. Abell was because the items had been discussed before. Mr. Abell said that he gave several reasons. Mr. Heady asked if that was one of them.

Mayor Sawnick asked Mr. Heady to state if he was in favor or not in favor of the motion.

Mr. Heady told the Mayor that he wanted to make sure that he heard Mr. Abell correctly.

Mr. Abell repeated his reasons for removing the items off of the agenda.

Mr. Heady stated that the reason he would be against removal on the basis that the items have been discussed before or been before the Council is because sometimes in this City he has brought things up in front of the Council and has received an answer and then when he checked the answer was not accurate. He can give them a list of things if they

wanted to hear them. He said for an example, in the aftermath of the hurricanes he brought something up at the podium, received an answer that didn't sound to be true and when he checked slowly the truth evolved. He said after the hurricanes some City Councilmembers received City property, which they didn't pay for. They also had City employees doing their private work, which they didn't pay for.

Mr. White called for a Point of Order. He said that this matter has been going on for five years now with Mr. Heady. He said everything that was done (referring to the hurricanes) was done truthfully and to help people who were nonessential to go out and work and fix employees homes so that the employees could work on getting the electric power turned back on. He told Mr. Heady that he was reaching for straws. Mr. White then brought up the ethics complaint that Mr. Heady filed against him (same time period). He went up to Tallahassee where the hearing was taking place and by the time they got to his case five hours later one of the Committee members asked why is this even before them. His Point of Order is that Mr. Heady is out of order.

Mayor Sawnick asked Mr. Heady to speak to the issue on the items being pulled from the agenda.

Mr. Heady stated that the reasons why his items need to be discussed is because the public doesn't get truthful answers in the first place. The reason for the reconsideration of date for presentation by Dr. Faherty and Glen Heran is because they are making these presentations throughout the community and it is prudent for this Council to listen to them.

Mayor Sawnick told Mr. Heady that he could not go through every one of his items as to why he wants them heard. He said the reason why they are being pulled is because there is no backup information provided.

Mr. Heady wanted to finish his remarks. Mayor Sawnick said that he would come back to him. Mr. Heady called for a Point of Order. Mayor Sawnick asked him what was his Point of Order. Mr. Heady told Mayor Sawnick that he doesn't interrupt other Councilmembers when they have something to say and lets them finish their comments. Mayor Sawnick told Mr. Heady that he would allow him to finish with his comments if he does them in a concise way. He then asked Mr. Daige for his comments.

Mr. Daige concurred with Mr. Brennan that anything that is electric related he is in agreement of having it taken off of the agenda.

Mayor Sawnick referred to Mr. Heady's items and said that some of the items have been voted on and other items they have talked about for months. There is a way to provide a clear and concise agenda that is proper. He is in favor of removing these items. He knows that people are willing to meet with Mr. Heady to make sure that he gets these items on the agenda in a way that they can be voted on.

Mr. Heady asked the Mayor if he wanted to meet with him outside of their meeting.

Mayor Sawnick told Mr. Heady that he could meet with the City Clerk and she could explain to him the process of getting the items on the agenda.

Mr. Heady said that he had no problem with getting the items on the agenda, the problem is they keep getting taken off of the agenda, which has nothing to do with the City Clerk, it is this Council.

Mr. White called the question.

Mayor Sawnick asked Mr. Heady to please explain concisely why he wanted to keep these items on the agenda.

Mr. Heady referred to number 9D-3) "Still waiting for written answers from City Manager." He said that he is still waiting for answers from the City Manager. The City Manager reported to the County Commission that there were things that he said that were not correct and he wants to know what he said that were incorrect.

Mayor Sawnick told Mr. Heady that he could not go through all of his agenda items at this time.

The motion passed 4-1 with Mr. Heady voting no.

The City Clerk asked Council to add item 7-E) to the agenda, which was to discuss the CCNA meeting that was held on May 17, 2010.

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

Mr. Heady asked that they add to the agenda the reappointments to the Finance Commission. He made that in form of a motion and it was seconded by Mayor Sawnick. He was told that even though the reappointment date for these members has expired, the members remain on the Commission until Council decides to reappoint them or not reappoint them. The Clerk has advertised for more applications for the Commission and will be bringing it back before Council on June 15, 2010.

Mayor Sawnick withdrew his second to the motion and the motion died for lack of a second.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed 4-1 with Mr. Heady voting no.

B. Proclamations

- 1. Proclamation to be given to Mr. James Sammons – Requested by Councilmember Ken Daige**

2. Memorial Day – May 31, 2010

Mayor Sawnick read and presented both proclamations.

C. Public Comment

Mr. Bob Solari, Indian River County Commissioner, reported that two Commission meetings ago, the Commission discussed the consultant's report (GAI Consultants, Inc. study for optimization of water and wastewater utility services) and after this discussion they felt that there was a big expense of about \$40,000, which would be for a series of interviews to discuss the political will of the Commission and Councilmembers to move forward. The County Commission could not understand the reasoning for this and felt that a joint meeting could save the taxpayers up to \$40,000. Therefore the County Commission is requesting a joint workshop on June 2nd, 3rd, or 4th to discuss the charge to the consultants. He said that at their first joint meeting, Mr. Abell made a motion to participate in the process of obtaining an independent consultant to investigate the consolidation cooperation of partnership. This is the reason the Commissioners' did not understand the reason for this portion of the consultant's report and which is why they would like to have this workshop meeting to discuss the will of the Commission and Councilmembers.

Mr. Heady made a motion to have a joint meeting with the County Commission on June 2, 2010.

Mayor Sawnick said that Mr. Heady's motion was not in order at this time. He said that when they discuss this under City Manager's Matters, he would be more than willing to put this item on their June 1, 2010 agenda so that the public has proper notice on what they would be voting on.

Mr. Heady asked why his motion was not appropriate at this time.

Mayor Sawnick said they were under Public Comments on their agenda and the public should have proper notice of the meeting therefore he would not recognize the motion at this time.

Mr. Heady asked is this a rule of the Council.

Mayor Sawnick explained that he is the Presiding Officer and Council has to ask permission to make a motion and any Councilmember could be denied.

Mr. Heady took exception to the rule. He made a motion to appeal the Mayor's decision. The motion died for lack of a second.

Mr. Gabbard said at the Consultants Competitive Negotiation Act Committee (CCNAC) meeting held on Monday, Mr. Jason Brown and Mr. Eric Olson (CCNAC members) said that they were unclear as to the scope of the work that the Consultant has been asked to

do and they were going to meet with the Consultant and report back to the County Commission.

Mr. Solari said that Mr. Peter O'Bryan, Indian River County Commission Chairman, planned to come and speak to the Council prior to the CCNAC meeting, which is why he is before them tonight.

Mr. Gabbard said that the two CCNAC members from the County were going to speak with the Consultant and then report their findings to the County Commission. He asked if this has occurred.

Mr. Solari suggested that they go ahead and vote on holding the joint workshop meeting. He said that they would be happy to hold the workshop meeting in Room B-101 of the County Administration Building.

Mr. Abell said that he spoke with Commissioner Gary Wheeler a few weeks ago. He asked if it would be possible to ask the Consultant to come forward with the questions that they were thinking of asking individually to the individual Councilmembers prior to any meeting that they have and to also address economic concerns.

Mr. Solari said before the Consultant has discussions with the elected officials they should have the financial information and have the Consultant report on it.

Mr. Abell felt that the Consultants could come up with questions to submit prior to any joint meeting.

Mr. Solari said the Commission feels that it would not make any sense for them to answer any questions until they have more specific financial information that the Consultants were suppose to generate. They did not feel there would be a benefit in answering the Consultant's questions prior to receiving information.

Mr. Gabbard said there was a motion made at the CCNAC meeting to proceed, which passed 4-2. He asked does that have any weight with the Commissioners or do they want to throw out all the work that has been done by the Committee.

Mr. Solari answered no. He said that the Committee could have taken the wrong path.

Mr. Gabbard said that the Committee has met about ten times and he attended the joint meeting when the Committee was formed and he understood their charge. He noted that four members voted to proceed and two voted against it, which were County employees.

Mr. Solari read the request for qualifications (RFQ) and he did not see anything about interviewing elected officials. When they voted to go ahead with the RFQ, they thought they were asking for a certain body of information, interviews with elected officials was not included in that information. They thought that the motion made was the expression of political will, which was more than sufficient for the Consultant.

Mayor Sawnick said that the City Council would discuss this and would continue to work with the County.

Mr. Don Jennings, 4601 A1A, said that he has been watching City Council meetings and there is a disaccord. He said that things need to be out in the open. He said that they put things on the agenda and then take them off. He felt that there is a City Councilmember who is for the people and tries to lower costs, to cut excessive paperwork and a lot of red tape in government. He said that West Palm Beach is selling houses as underwater sales, which is where they sell for more than what is owed. Forty-four percent of their homes that were sold were underwater sales, Martin County had 43% and St. Lucie County had 66%. He did not have any information on Indian River County. He said that it is not like it used to be. It costs more now to live then it did last year. He stated that he called Mr. Heady on Friday, April 30, 2010, to give him an encouraging word on what he is trying to do for the people. He received a return telephone call from Mr. Heady on Sunday. He felt that Mr. Heady was the one who was fighting for the people. He reported that in July, Gainesville, Florida would be looking at a 25% reduction of City employees. He felt that the City of Vero Beach needed to tighten their belts.

Dr. Harold Cordner, 12635 North A1A, said that he was here representing himself as well as the Florida Society of Interventional Pain Physicians. He felt that a temporary moratorium was a good idea. He reported that there were over 107 pain clinics in Broward County and they are starting to head up here. He encouraged the Council to consider passing the Ordinance on Pain Clinics (under Public Hearing on tonight's agenda). He felt that they were doing the right things and applauded them.

Mr. M.J. Wicker, 1036 29th Street, wanted Council to know that he was serious about what he wants to do with the golf course. He read a letter in support of reopening the Dodgertown golf course into the record (please see attached). He mentioned that it was indicated in a recent telephone conversation with Mr. Gabbard that rent was an issue. In a letter that he submitted to Council earlier, which stated that he was told by Mr. Gabbard that the property would be leased for \$1.00 a month. He said that he did a lot of work based on that comment and he hoped that he was not wasting his time and Council's time. He felt that this community needed this golf course.

Mr. Gabbard reported that they received a letter that was sent to the County Administrator several days ago regarding the golf course. He reported that when the County leased the City the nine acres it was under the understanding that the City would be using it to redo the golf course. The City put out an RFP in 2007 and one of the things that Council decided was that they would entertain proposals at \$1.00 per year. He showed on the screen the lease property and stated that since MiLB leased the property that property was not under control of the County. He did not think this property could be leased to anyone until they clarify whether or not they would be allowed to use it because it does take a big portion of the number one fairway. He noted that they were trying to resolve this issue with the County. He reported that there is at least one other organization who is also interested in restoring the golf course. He reported that the

County Administrator expressed an interest in putting softball fields there to enhance the situation with MiLB. The City is not dragging their feet in trying to get these issues resolved.

Mr. Heady said the City Manager reported that the County was interested in putting softball fields out there. He asked doesn't the City have a 45 year lease on the property.

Mr. Gabbard answered yes, there is a lease for the nine acres.

Mr. Heady said if the City has a lease on the land, then the County cannot do anything without the City's permission.

Mr. Gabbard explained that the nine acres are leased to the City until 2045. But, the other piece of property is the area under lease with MiLB, which crosses the number one fairway. Therefore, they do have something to say about it. There also is a drainage issue. He reported that there were a number of issues that they need to resolve before they can send out a request for proposal.

Mr. Heady asked has the other interested party sent any written notification.

Mr. Gabbard reported that he provided Council with that information. They have been on site and have analyzed what it would take to revitalize the golf course and are very serious.

Mr. Heady said the information that was provided to Council was basic corporate information and not anything specifically pertaining to this golf course. He asked is there anything in writing from this organization that pertains to this old Dodgertown golf course.

Mr. Gabbard answered no.

Mr. Heady said the only thing the City has at this time is what they received from Mr. Wicker. He said that Mr. Wicker's concern was not with the City or the County, but his concern and negotiations would be with MiLB because they lease the property. The portion of the fairway in question could be made innovative. He said that he spoke with Mr. Craig Callan about this and was told that he would love to cooperate with them. Mr. Callan told him that he would be more than happy to have the golf course brought back. Mr. Heady said that Mr. Wicker and his investors would be restoring the golf course and the property would be placed back on the tax roll. He said that this is a recreational opportunity and it seemed to him that Mr. Wicker was the only investor group that is willing to put anything in writing and they should at least listen to what he is presenting to the City.

Mr. Gabbard said Mr. Heady has made some very valid points. But, the issue is that MiLB's deal with the County is for five years. Mr. Wicker would have to spend money

for a five year lease. He did not think anyone would sign a contract like that if they thought that in five years their investment would go away.

Mr. Heady said the only thing Mr. Wicker would need to do is negotiate a deal with Mr. Callan to use the small portion of the first fairway for five years and after that if the golf course is restored and in play for the public then the property reverts back to the County. He did not see a problem.

Mayor Sawnick asked Mr. Gabbard to get information on the golf course together for the next Council meeting.

Mr. Daige said there are a number of details with this lease and with this property. He would like to have a Special Call meeting to discuss just this issue. He felt that it would be prudent for them to set a meeting aside after staff has all the materials together and then discuss it. After they discuss this, he would ask that the agenda has room for public input.

Mr. Wicker asked if MiLB has this lease just for five more years and they choose to go elsewhere then why would they consider building ballparks and soccer fields on a 50 year old historical site.

Mr. Heady asked are there any answers to Mr. Wicker's question.

Mayor Sawnick agreed with Mr. Daige that they should have a Special Call meeting to discuss this.

D. Adoption of Consent Agenda

Mr. Daige pulled item 2D-4) off of the consent agenda.

Mr. Heady first pulled item 2D-2) off of the consent agenda and then realized that he wanted item 2D-1) pulled off of the consent agenda.

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

1. Regular City Council Minutes – May 4, 2010

Mr. Heady referred to page 1, last paragraph, where Mr. Vitunac states that "their rules do require that there be some type of backup provided so that the public, staff and Council are aware as to what is going to be discussed and can be prepared for the item." He asked Mr. Vitunac to provide him with a copy of those rules.

Mr. Heady referred to page 3, where the Mayor was in favor of removing his items because there was no backup material provided. He asked the Mayor to provide him with

backup on different cities that incorporate time limits where the City Council has imposed rules on their City Council members that he said exists.

Mr. Heady asked that on page 16, second paragraph, it should read that the increase was an increase to the 5% portion of the total cost. And on page 29, the first sentence should say Mr. Daige instead of Mr. Heady asked the City Attorney if an individual Councilmember could take the City to court. He also referred to page 28, where it states that Mr. Daige requested to the City Manager to put in writing his comments and thoughts that were made to the County Commission at their 8/12/08 meeting to get it on the record once and for all so that they can put this issue to bed. Mr. Heady said that he still has not received those comments from the City Manager.

Mr. Daige made a motion to approve the minutes as corrected. Mayor Sawnick seconded the motion and it passed unanimously.

2. **Regular City Council Minutes – April 20, 2010**
3. **Fuel Oil Storage Tanks/Plant Stack Painting – Final Payment**

These items were approved under the consent agenda.

4. **Monthly Capital Projects' Status Reports**

Mr. Daige had some comments to make about the capital improvements being made at the Airport. He wanted to make it clear that he was not recommending any funding or approval for cutting or removal of trees until he sees all the paperwork with details. He said that there may be some grant money available to do this work. He read the paragraph of the memo having to do with the Obstruction Survey and he asked before any approval that an addition be added to the paragraph. He wanted the City Council to approve the studies first to make sure that they wanted to move forward with the cutting of the trees. With that addition to the paragraph he has no problem with moving this forward.

Mayor Sawnick made a motion to accept the monthly project report with this amended language. Mr. Abell seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

- 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, reported that this was the first of two public hearings on this Ordinance.

Mayor Sawnick opened the public hearing at 7:11 p.m.

Mr. Bob Solari commented that after listening to the Doctor who spoke earlier and stated that there are 107 Pain Clinics in Broward County, he asked Council that as they go through this and generate information if the County could get the Council's authorization to have City staff speak with County staff in order to get them up to speed on this as fast as possible. He felt that a unified approach would probably be the best.

Mayor Sawnick agreed.

Mayor Sawnick closed the public hearing at 7:13 p.m., with no one else wishing to be heard.

Mayor Sawnick made a motion to set the second public hearing for June 1, 2010. Mr. Daise seconded the motion.

Mr. White said that he read in the newspaper that there was a Pain Clinic on US1. He asked how did this Pain Clinic get permission to open.

Mr. McGarry reported that they came in before the moratorium was discussed.

Mr. White said that this was discussed months ago. He said that Council was not notified of any Pain Clinic coming into Vero Beach. He was upset when he picked up the newspaper and read that there was a new Pain Clinic in the City of Vero Beach when the Council said that they did not want to have any in this area.

Mr. McGarry said that it was already in the pipeline and approval had been given for a change of use. He said that legally it is very difficult to stop something that is already in the system.

Mr. White expressed to the City Manager that he did not want to read something in the newspaper that he didn't know anything about.

Mr. Gabbard explained that he did not know there was a Pain Clinic going in and he was not sure if Mr. McGarry even knew there was a Pain Clinic going in. They (applicant) came in and applied for a business license to operate a clinic. He said that he was following what was going on in Stuart and received a copy of their Ordinance and they are aggressively going after this. There was another Pain Clinic that had been operating for awhile, but has since closed. He said there is one Pain Clinic in the County and two or three in Sebastian. He said that they were aggressively pursuing this and they have to pass this Ordinance.

Mr. White agreed that they need to pass the Ordinance. His problem was that he was not informed.

Mr. Gabbard said that he would have informed Council if he had known about it. He said that they would get this under control and would not allow this to continue.

Mr. White said that they have to be aggressive on this. He wanted them to be proactive.

Mr. Daige said that when this came before Council at their last meeting, he was under the impression that they had to get this Ordinance through and that they did not know of any Pain Clinics that were going to open. He was not told that there was a Pain Clinic already in the pipeline. He said that this Ordinance speaks to not allowing these types of Clinics to operate. It was his understanding that this entity applied for a business license to operate. It sounds to him like there were some gray areas when this came before staff. He asked the City Attorney to check into how they applied for the license and what type of paperwork was filled out to see if there were some gray areas that they could renege on issuing the license. He felt that the City Council has the right to renege a license if they have a problem with any business that operates in this City and if they feel it would have an adverse effect on their citizenry. He would like to get those answers so that they could backtrack and pull that business license. What he was hearing from Mr. McGarry was that they did not know it was a Pain Clinic and it slipped in. He would like to know how this slipped in.

Mr. Vitunac said that a request was made to pay a business tax. The use at the time it came in was legal and it is still legal. The State has passed a law, which makes severe regulations that go into effect on October 1st. If the Pain Clinic is operating illegally now then the Police Department could take criminal action.

Mr. Daige said the guidelines coming down from the State are guidelines that they could institute into this Ordinance. This company that has already applied for their occupational license tax would fall under those guidelines and not be grandfathered in as they are now.

Mr. Heady said that Mr. White was correct and justified in his outrage. It is clear that this Council was not in favor of this and they were told by staff not to worry about this because they had this under control. He said that he requested an emergency moratorium and staff talked Council out of it stating that it was not needed. If they had done this moratorium they would be in better shape than they are now. He said the comments with respect that they were asked if they came in asking for a business license, the operative word was that they asked. This was not something that they had the right to do, if they had to ask. If they had the right, they would just go and do it. The City should have passed the moratorium. He asked for a 10-minute break in order to give Mr. McGarry time to pull the file so he could see the date that this came into the pipeline.

Mr. Daige said it is in the City Code that as a City Council, if they see that a particular business is having an adverse effect on the citizenry, they have every right to put a stop to

this now. For some reason the information did not get to Council the way it should have, but he wants this stopped now.

Mr. Heady made a motion to take a break while Mr. McGarry gets the documents. Mr. White seconded the motion.

Mayor Sawnick asked could the Council do something about this right now.

Mr. Vitunac said that if they do it would be his recommendation that it is not legal. No one said that it was not necessary to do an emergency moratorium. He said that he stated that it was not legal. He said that his office has been reviewing this for the past month and are giving the Council a proper legal way that would go into effect. To do anything other than that and it is challenged in court they would lose. If Council wants to protect the people then they would do it legally, which means adopting this land use Ordinance at a public hearing on June 1st. He said that there is no way to do an emergency moratorium on land use issues.

Mr. Daige said to make this work with the adverse affect that he feels it would have on the citizenry, he hoped to get Council's full support because when they have full support of the Council it would be hard to overturn the decision if it does go to court.

The motion to take a break passed unanimously.

Mayor Sawnick said there was a motion on the floor to set the public hearing for June 1st.

Mr. Heady said that Dr. Cordner would like to speak.

Mayor Sawnick explained that the public hearing has been closed.

Mr. Heady felt that Dr. Cordner had something valuable to say and it might have an impact on his vote.

Mayor Sawnick said that they were not voting to institute the Ordinance, they were voting to move it to a public hearing.

Mr. Heady asked if Councilmembers did not have a problem with listening to the Doctor, that they listen to the Doctor.

Mr. Daige and Mr. White did not have a problem with letting Dr. Cordner speak.

Mayor Sawnick reopened the public hearing at 7:27 p.m.

Dr. Cordner said that he has been a Board Certified Pain Management Specialist in Vero Beach for 16 years. He has been watching this progress and has seen everything as far as what the Pain Clinics are doing now. He cautioned Council as far as limiting this to Pain Management Clinics because what they are doing now is opening urgent care centers or

going under different names. The Legislation that just passed has a grandfathering period and would not take effect in October. It would take effect on July of 2011.

Mayor Sawnick said that they need to move the Ordinance to public hearing and are not deciding anything at this time. He asked for a vote on moving the Ordinance to public hearing.

Mr. Heady asked before they vote on this, could they have discussion.

Mayor Sawnick answered no; discussion is over at this time.

Mr. Heady called for a Point of Order. He said that it is so hard doing anything with him (Mayor). He said that he just had a little discussion. He said that they were going to vote on something that is important to the community. He asked do you mind a little discussion.

At this time, Mayor Sawnick called for a vote on the motion.

Mr. Heady again called for a Point of Order. He felt that they needed discussion on this.

Mr. White suggested that they vote on the motion after the break.

Mr. Daige said if any Councilmember had more discussion on this he did not have a problem hearing it. He would still like to bring up what he said about their Ordinance as far as that he feels it would have an adverse effect.

Mayor Sawnick asked Mr. Heady when he makes a Point of Order to make sure that he states what rule is not being followed and then he would address that issue.

Mr. Heady asked Dr. Cordner if it was possible for him to get with the City Manager to add something in the Ordinance so that when they vote at their next meeting that something is included that covers what Dr. Cordner was talking about. He said they could work with the City Attorney to add the language to the Ordinance. It would not be a major change.

Mr. Vitunac said that he would be happy to work with Dr. Cordner.

Mayor Sawnick asked the Clerk to poll the Council on the motion to move the Ordinance to a second public hearing on June 1, 2010.

Mr. White asked are they going to wait to vote until Mr. McGarry brings back the information on the clinic.

Mr. Heady agreed with Mr. White that they should wait until after the break to vote because then they could see when the clinic came into the pipeline.

Mr. McGarry could not guarantee that he would be able to find the information because his staff was not present tonight.

Mayor Sawnick said the information would not change anything with the vote.

The Clerk polled the Council and the motion on moving the Ordinance to public hearing on June 1, 2010 passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

The Council took a 10-minute break at 7:35 p.m.

Mayor Sawnick said that the information requested could not be found at this time. He suggested that this is advertised well.

Mr. Vitunac wanted to wait and have their public hearing on June 1st, which would give him time to meet with Dr. Cordner for guidance on the Ordinance. He felt by acting tonight without sufficient information could put them at risk.

Mr. McGarry reported that it was approximately two months ago when they approved the change of use for the new Pain Clinic and business tax was paid.

Mr. Heady made a public records request for all applications for pain clinics that have been made with the dates on them. He wanted to track this one to see when it started and who is involved.

Mr. Daige heard what the City Attorney was saying. But felt that the City Council was charged with the general safety of their citizenry and if they feel they can do it then it needs to be done tonight. He hopes to have the full support of the Council.

Mr. Daige made a motion to revoke all licenses and permits issued for a Pain Clinic located at 1146 21st Street, Vero Beach, Florida.

Mr. McGarry reiterated that a change of use was approved and the business tax has been paid.

Mr. Daige restated the motion. He said that his motion was to revoke all licenses and permits for the Pain Clinic in question and that this be brought up at their June 1, 2010 meeting.

Mr. Heady suggested having a moratorium put in place on any further action.

Mr. Heady seconded the motion made by Mr. Daige.

Mr. Heady stated rather than revoke what has already been done, place a moratorium for 90 days.

Mr. Daige amended his motion to place a moratorium for 30 days in accepting applications relating to Pain Clinics. Mayor Sawnick seconded the motion and it passed unanimously.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City Council of the City of Vero Beach, Florida, expressing its opposition to Offshore Oil Drilling in Florida Waters as having a deleterious impact on Florida's Environmental and Economic Resources; directing the City Clerk to transmit a copy of this Resolution to various State and Federal Officials; providing for an Effective Date.**

Mayor Sawnick read the Resolution by title only.

Mayor Sawnick reported that this is a similar Resolution that Ft. Lauderdale has passed and even though this is a State and National issue, he thought that this would be a good time to bring this up. He expressed that they need to stand together with their sister cities whether they are on the East or West Coast. He noted the negative impact that they are seeing in the Gulf, which possibly could impact them sometime in the future. They need to let their State officials know what their stance on this is. He said that the Governor is looking at putting an item on the November ballot to let the voters decide if there should be offshore drilling.

Mayor Sawnick made a motion to accept the Resolution. Mr. Daige seconded the motion.

Mr. White commented that BP (British Petroleum) is not a U.S. owned oil company. Also, the most that they can do to make this Resolution work is add to the Resolution that they express opposition to offshore oil drilling within the three mile limit in Florida waters. He explained that they have no control over anything beyond three miles. He said that he would approve the Resolution if the three mile limit is inserted.

Mayor Sawnick had no problem with that change.

Mr. Heady thought that if three miles is the legal limitation then there is no reason why they have to put that in the Resolution.

Mr. White commented that this is a "feel good Resolution" and the three mile limit is letting people know we are allowed to go out three miles.

Mayor Sawnick and Mr. Daige amended the Resolution to add the three mile limit to the Resolution.

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

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, requested by Vero Property Investment, LLC, to amend the Comprehensive Plan Future Land Use Map by Changing the Land Use Designation from C, Commercial (up to 15 Dwelling Units/Acre) to RH, Residential High (up to 15 Dwelling Units/Acre) for the property generally located East of the Northeast corner of the Intersection of 21st Street (US Highway 1) and 10th Avenue, including all of the replat of Henning's Subdivision that lies North of 21st Street (US Highway 1) and a portion of Block 1, Citrus Park, containing 1.76 acres, more or less, and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry explained that both 5-A) and 5-B) are companion Ordinances and he recommended that both Ordinances be approved and a public hearing for both Ordinances to be heard on June 15, 2010.

Mr. White referred to page 2, under existing land use designation. He wanted to know why there was a difference between 15 dwelling units per acre and then zero acres.

Mr. McGarry explained that there are different zoning districts in the commercial district and some don't allow any density.

Mr. White said by approving this Ordinance they would be allowing 15 units per acre and right now there is zero. Mr. McGarry said that was correct under the current zoning.

Mr. White noted that it said in the Ordinance that a traffic study would not be needed.

Mr. McGarry explained that they (the applicant) will need a traffic study when they come in for development review.

Mr. White then referred to page 5, Article V, (which he read) and said that they were going from 0 to 15 dwelling units per acre. He thought that would be an increase in density.

Mr. McGarry said no because the request to zoning would be to 12 acres. It does not preclude them from rezoning property to a different density, but it precludes them from coming up with another density.

Mr. White referred to the letter from Kimley Horn confirming that no traffic impact analysis or statement is required. He asked if they are approving RM-15 or RM-10/12 zoning. Mr. McGarry said that they are approving RM-10/12, unless there is a typo in the Ordinance. He explained that the land use map has a different density. He expressed to Council that because this is a quasi judicial hearing and the applicant is not here for the

hearing they should not be discussing this. He asked Council to call him if they have any questions.

Mr. Heady wanted to know why it was alright for them to call him and ask questions, but they cannot ask the questions here at this meeting.

Mr. McGarry explained that a Councilperson could talk to staff out of the quasi judicial process.

Mr. Daige stated that this entity approached the City do something at this location and he would like to know what they are proposing. The applicant has talked to staff and staff has given them the impression that the City Council will pass this or it wouldn't have gone this far. He wanted to know some of these answers before it goes to a quasi judicial hearing.

Mr. Vitunac explained that with the future land use plan, an applicant could come in and ask to change the plan without giving any particular use. He said what the Council has to judge is all the uses that could go into the land use plan that the person wants is allowed. You could ask an applicant what he proposes to do and he could tell you one thing and then change his mind once the approval is given.

Mr. Daige brought up their current Vision Plan and said that at the neighborhood meetings these are some of the concerns that the citizenry ask when they do the land use changes. The Vision Plan indicates that there are master plans drawn up for different areas. He felt that the surrounding neighborhoods would like to know what is going on. He recalled at the Vision workshops that were held that this is what the people wanted to see and why they asked for Master Plans. He said that a lot of these plans have not been put into place. He asked with this land use change, is it just for this property. Mr. McGarry answered yes. Mr. Daige said obviously from what the Planning and Development Director said earlier, he is not going to tell them what the plans are for this property. He asked while they are talking about the entity, is the company out of State. Mr. McGarry said that if there is an out of State address on the application then the company must be out of State. Mr. Daige then said it refers to Indian River School District and has a builder's name. He asked if they are the licensed contractor for the site. Mr. McGarry was not sure.

Mr. McGarry pointed out that the applicant wishes to expand their convalescence center. He said the problem is that Council, as the decision makers, cannot have that enter into their decisions.

Mr. Daige understood that and said that was not part of his decision.

Mr. White said when this does go to public hearing that he would like to see notices sent to the surrounding neighbors within 500 feet of the property. He felt that the neighborhood should be informed that there is going to be some changes.

Mr. Daige was in agreement with Mr. White and would like this incorporated in the event that this moves forward.

Mr. McGarry stated that the property owners within 500 feet were already notified prior to the Planning and Zoning Board hearing. He said at that meeting there were not too many questions asked. He said that they did receive some calls from people who were interested on what the applicant was going to do.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for June 15, 2010. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

- B) An Ordinance of the City of Vero Beach, Florida, requested by Vero Property Investment, LLC, to amend the Official Zoning Map by Changing the Zoning Designation from C-1, Highway Oriented Commercial to RM-10/12 Medium and High Density Multiple-Family Residential District for the property generally located East of the Northeast corner of the Intersection of 21st Street (US Highway 1) and 10th Avenue, including all of the replat of Henning's Subdivision that lies North of 21st Street (US Highway 1) and a portion of Block 1, Citrus park, containing 1.76 acres, more or less, and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. White made a motion to approve the Ordinance for first reading and set the public hearing for June 15, 2010. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

- A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit**

This item was pulled off of the agenda.

- B) Strategic Land Purchase**

Mr. Eric Menger, Airport Director, said this property is currently owned by Sandler at Pinecrest, LLC. He stated that recently the listing Broker indicated that they would be interested in selling a portion of the property. He said that staff looked into funding opportunities from the Federal Aviation Administration (FAA) and the Florida

Department of Transportation (FDOT). He noted that FDOT indicated that a potential grant in the amount of \$1.6 million dollars may become available for aviation use. He pointed out on the doc cam the property they were talking about (on file in the City Clerk's office). He then showed a potential concept plan for the property. He said that they could use a portion of the grant money to purchase the property in order to create a mixed use facility. He noted that FDOT was willing to transfer funds for this project, which would take about three months. If Council is not willing to do this then staff would back off. He said it would be nice to have an "Eco-Research Park," which could serve the community well. He said that the Airport would lease the property to private developers. He noted that he would like to have an increase to the terms of the lease. He explained that currently 30 years is the maximum allowed for aviation leases, but for non-aviation parcels, such as this, they could look at longer term leases. He said that this property would be adjacent to the Enterprise Zone and they could include this in the Enterprise Zone, which gives businesses in the area tax advantages.

Mr. White said that he has been contacted by a few people who live on the other side of 26th Street who are worried about what is going to occur on this property. He wanted assurance that if they decide to move forward with this, that there is a buffer for the residents on the 26th Street side.

Mr. Menger did not want to get too far ahead because at this point they were only looking at the first step, which is to get Council's direction to proceed to the next phase. He noted that the next phase would be to look at getting an appraisal and to negotiate purchase price, which they would then bring back to Council. He said that at some point a site plan would need to be put together. He noted that the concept plan that he showed on the doc cam was to give some ideas for the property.

Mr. White said in essence they would be taking out five holes of the old Dodger Pines Golf Course and the Clubhouse.

Mr. Menger said that was correct.

Mayor Sawnick said there was a member of the audience who would like to speak on this item. Council agreed to allow the public to speak at this time in the meeting.

Mr. Jeff Thompson, Local Developer, said that he developed a 14 to 15 acre Industrial Park on 41st Street and he spent a lot of energy and money developing it. He did not feel that they needed to spend taxpayers' dollars on this. He said that this is kind of like using funds against the private sector. He said did not feel it is right for the City to own the property and lease it out. If the City is going to develop it then they should develop it and sell it outright. He noted that there was a lot of empty property along 41st Street. He did not feel it was right for him to have to compete against the City, County or the State. He noted that he was all for the Enterprise Zone, but could not support this proposal at all. He did not feel that the City should spend any money in moving forward on this project.

Mr. Toby Hill, 685 Lake Drive, asked Council to consider that this is an inappropriate role for government. He said that it was not government's business to get into development. He said that the City would be competing head to head with commercial developers. Governmental entities do not come under the same premarket forces that commercial developers do. He was opposed to this. He said that there were things the City could do to spur development in order to help the economy, such as passing Ordinances, provide tax abatement, etc., to provide incentives that would drive developers to look at land and to take the risk. He encouraged Council not to spend another dollar on this and not to compete with private industry.

Mr. Danny Delisle (spelling may be incorrect), 63 27th Place, felt that they should know how much land is available to develop at the Airport and how many years that build-out would take before they add more square footage to that build-out. The big problem they have is that legacy costs are killing every industry in the County and all they would be doing is adding more legacy costs. He asked who is going to pay for this operation facility later when all this money is used to purchase this land. As far as jobs, there are no jobs in this County now. He said that he has a group of volunteer business leaders who would love to put a conceptual plan together for this property at no cost to the City.

Mr. Daige said the three men who just spoke were in the development community and are local citizens. He said that the way he found out about this was that he received a telephone call from the City Manager who discussed with him (Mr. Daige) the possibility of purchasing this property and that they would have an open discussion at the City Council meeting. Then in newspaper a reporter interviewed Mr. Menger and a there were a number of things that appeared in that article that he was not in agreement with. He was not aware that the Airport Director would be giving all his input to the news media first. He read a portion of the article, which stated "before the housing market slump that killed many planned housing developments in the State. The 336 acres that once made up the golf course was to be developed as Heritage Reserve Subdivision." Mr. Daige said that he attended the meeting a few years ago and the reason this project was killed was because the development entity at the time wanted a special taxing district there and Council did not want to do that. He said that he was not in agreement with the Airport Director's plan. He said that he spoke with local developers who asked him to really think about this. He said that there is a lot of open inventory in this County and they would be adding more to it. As a City, they might be able to purchase the property later on down the road at a better price. He noted that the City leases a lot of property at the Airport and their lease payments are hefty. In the future the City might be able to purchase property at a good price and pay on the loan and not have to pay to the Airport Enterprise Fund. He was not in favor of moving forward with this. He felt that they would be putting a burden on the private enterprise.

Mayor Sawnick was in favor of the idea. He could see Mr. Daige's point as well as the three gentlemen who spoke tonight. He asked is there a time frame of when the State money would be available.

Mr. Menger said the money would go back to be used for a previously approved project.

Mr. Vitunac asked Mr. Menger if he was required to develop this in a commercial manner or could they keep it as open space.

Mr. Menger said that they would not be required, but FDOT would be giving them the grant money with the idea that it would ultimately become a revenue producing property. He said that the Airport's purpose is to try to make sure they operate in the profit so they don't have to use tax dollars.

Mr. Vitunac asked what about the idea of protecting the perimeter of the Airport as a buffer.

Mr. Menger said that would be a benefit. He understood and respected the opinions that were given today. But, the Airport would not be a developer. They would simply be a facilitator.

Mr. Heady said regardless of the final outcome of Council's position on this, he had some questions that he would like to have the answers to. He said that during World War II, some of the Airport property was purchased by the government under eminent domain. After the War, the FAA turned the property over to the City and it was his understanding that there were some deed restrictions. He asked for a copy of a map so that the Council could see the total land that was involved in the transfer to the City. He also would like to see if this parcel of land was included. He would like the document that had the land use restrictions. He requested the total vacant land available now at the Airport and if there were any projections with respect to when that build-out would occur. He requested to receive this information before their next meeting. He said that he would like to have this information regardless of what Council decides. He said that it was interesting that one of the selling points for doing this was that it was not a good location for 750 homes. He said that he was not on Council when they approved the 750 homes, but it was interesting that staff now states that the development that was approved was not a good location.

Mr. White asked to allow Ms. Helen Castletine, from the Chamber of Commerce, speak regarding the Enterprise Zone.

Mrs. Helene Castletine, Economical Development Director with the Indian River County Chamber of Commerce, said that she had mentioned to Mr. Menger when they heard about this proposal that it does fit in with the Enterprise Zone Development Agencies Strategic Plan. There were a couple objectives that talk about creating a favorable environment for new business creation and existing business expansion. She said that she respects the comments that were made tonight. She felt that the concept was good and it does fit in with the Enterprise Zone Strategic Plan.

Mr. Abell felt that it was worth investigating since nothing is happening on the property.

Mr. Menger showed the steps that would follow if Council gave him instructions to move forward on this (please see attached). He said that his only concern with not moving ahead now is they might not be able to do this in the future.

Mr. White asked who approached who about this property.

Mr. Menger said that he approached the listing broker.

Mr. White asked if they decide not to look at this right now, is he correct that they would not lose the grant funding.

Mr. Menger said that was correct. He said that the opportunity is now. He said that even if this is not approved by Council, the concept is out there for someone to take and possibility to make something happen.

Mayor Sawnick asked if Council was to approve this right now, how much staff time is going to be taken with this project.

Mr. Menger said they would need 30 to 60 days. He explained that he would first send out a letter of intent and then get appraisals for the property, which would cost about \$4,000. Then they would come back to Council in July.

Mr. White made a motion to have a 30 to 45 day moratorium on this decision in order to investigate this further. Mr. Sawnick seconded the motion.

Mr. Daige said that noise issues would be coming up again. He said that there is a possibility to look at other grants to purchase this property for just noise abatements. He said that they could put in bike paths and greenways.

Mr. Menger said that was not possible.

Mr. Daige said that he would like the City to have control of the land and not the Airport. He was in favor of Mr. White's motion. He felt that they should not be adding any more inventory or industrial parks at this time. He had a problem with the lobbying that was done for this.

Mr. Menger said that he was not lobbying, he was just answering questions from the Press.

The motion passed 3-2 with Mr. Heady and Mr. Abell voting no.

C) Request for Council Approval – Electric T&D Reorganization

Mr. John Lee, Acting Electric Utility Director, explained that when Mr. Sloan was with the City they knew that there would be some people retiring in the T&D department and when that happened they would look at reorganizing the Department. He said that those

retirements have occurred and what Council has in front of them is the proposed reorganization.

Mayor Sawnick asked what would be the actual cost savings for the City once this reorganization occurs.

Mr. Randall McCamish, T&D Director, said that they would be looking at between a \$300,000 to \$500,000 savings in next year's budget.

Mayor Sawnick made a motion to approve the T&D reorganization as proposed. Mr. Daige seconded the motion and it passed unanimously.

D) Internship Program Policy

Mr. Robert Anderson, Human Resource Director, read the Internship Program Policy statement (attached to the original minutes). He explained that if Council adopts the policy it would be an amendment to their Personnel Rules.

Mayor Sawnick made a motion to adopt the Internship Program Policy. Mr. Daige seconded the motion.

Mr. Heady asked who requested the policy.

Mr. Anderson explained that the City Manager asked him to draft a policy. He said that there are currently two people working in GIS as intern students and there is more interests from students in doing this, so that they felt that they should have a formal policy in place.

The motion passed 5-0.

E) Report from CCNAC – Meeting held on May 17, 2010

Mr. Rob Bolton, Water & Sewer Director, reported that the CCNAC met yesterday and there was a discussion on what the Councils' and County Commission's votes were regarding the contract. He told the Committee that there was a 5-0 vote from the City of Vero Beach City Council to move forward with the proposal. He said that Mr. Cadden reported that the Town of Indian River Shores also voted 5-0 in favor of moving forward with the proposal. Then the County gave their update and said that the County Commission did not vote in favor of the proposal. The discussions that came out of the meeting on Monday was that the two representatives sitting on the Committee from the County were going to go back and meet with the Consultant to find out if there were some items in the proposal that they had missed. He agreed that after reading the proposal that there may be some clarification issues on the County's part. However, at the meeting that they held on April 15th the whole Committee agreed with what was in the proposal, which is why he brought it to Council. The intent of what they wanted in the proposal was to collect the data, review the data, come up with some different

scenarios and then sit down with staff and discuss certain aspects on how the systems operate and then sit down with the political entities one on one and discuss with them the different options that the Consultant found and once this is done they would come up with a report. At that point if there is no continuity then it would die. There would be no reason to spend this type of money on a proposal.

Mr. Bolton commented that Mr. Solari had mentioned earlier that he did not read anything in the proposal that discussed interviews with the elected officials. Mr. Bolton agreed originally in the scope that clause was not in there. However, during the interview process it was brought up by the Consultant who was selected that what worked well with other communities was the interview process. Mr. Cadden picked up on that and reiterated it a couple of times in the beginning when they were selecting a consultant. He said that the Consultants were rushed to write the proposal and on top of that they were asked to phase the proposal into Phase 1-A and Phase 1-B) (discussed at the last Council meeting). Mr. Bolton said that it was not his recommendation to move forward with meeting with the other entities while they are still waiting to see what the County Committee members find out from the Consultants. The Town of Indian River Shores will meet on May 27th and he didn't know if someone from the County Commission was going to appear at their meeting or not. He reiterated that he did not feel they will accomplish anything by meeting with the County. He will call the Consultant at the end of the week for an update.

It was the consensus of the Council that the City Manager telephone Mr. Solari and relay to him their thoughts on the matter.

Mr. Heady made a motion that the City Council meet with the County Commission. The motion died for lack of a second.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1. Times of City Council Meetings – Requested by Vice Mayor Abell

Mr. Abell commented that part of his reason for bringing up the time of their meetings is because their meetings seem to be getting longer and longer. He felt that they needed to look at the times that they are holding their meetings and felt that all their meetings should be held at 9:30 a.m., unless for some reason they needed to be held after 5:00 p.m. He referred to his memo (please see attached) and read parts of it.

Mr. Abell made a motion that future City Council meetings be held at 9:30 a.m. Mr. White seconded the motion.

Mayor Sawnick concurred with a lot of the things that Mr. Abell has just said, but still felt that one of their meetings should be held at night.

Mr. Daige also agreed that some good points have been brought up. However, with whatever times that they decide to hold the meetings he feels that they should have one meeting in the morning at 9:30 a.m. and the second of their regularly scheduled meetings should be held at night. He said that for consistency he would like to see all of their Special Call meetings held at 9:30 a.m. He said that they just need to settle on the time for their night meeting. As far as staff being here for long meetings, their dollar salary reflects the time that they have to spend at these meetings. Again, he asked that they consider having a morning meeting and an evening meeting. If they are going to continue meeting at 6:00 p.m. then they should talk about if the meeting goes over a certain time that they adjourn for the night and reconvene the meeting the next day.

Mr. White felt that they are more productive at day meetings. He mentioned how many staff members were at the meeting tonight and that some staff members are getting comp time or overtime for having to be at a night meeting. He feels strongly that they should hold their meetings at 9:30 a.m., the first and third Tuesday of the month. This way they would be consistent. He also noticed that during their day meetings, they have more people in attendance.

Mr. Heady said that as far as staff goes, if they check their pay checks they are getting paid for having to be at a night meeting. It troubles him that a Department Head could not get into a computer to get information (referring to an incident that occurred earlier in the meeting). He said that when staff is done with their items, then why not let staff go home. He felt that the day time and night time meetings were a good compromise and he would be opposed to any changes. He recommended that they keep the meetings the way that they are.

Mr. Daige agreed with having one morning meeting and one night meeting. He then asked the City Manager if any of the staff attending this meeting was getting paid time and a half.

Mr. Gabbard said that none of the employees were getting paid overtime or were entitled to comp time. He said that they were all exempt employees.

Mr. Daige added that their Special Call meetings should be held at 9:30 a.m.

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

At the next City Council meeting they will discuss the time of the meetings.

At this time, Mr. Abell excused himself from the meeting.

2. **Reconsideration of date for presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady**
3. **Still waiting for written answers from City Manager – Requested by Councilmember Heady**
4. **OUC Contract – Requested by Councilmember Heady**
5. **50MM penalty – Requested by Councilmember Heady**
6. **November Elections – Requested by Councilmember Heady**
7. **Debate on Sale of Electric – Requested by Councilmember Heady**
8. **8/12/08 to be played and discussion to follow – Requested by Councilmember Heady**
9. **Federal Lawsuit – Requested by Councilmember Heady**
10. **Honest Services Fraud – Requested by Councilmember Heady**
11. **Golf Course – Requested by Councilmember Heady**

These items were removed from the agenda.

B. New Business

1. **Wreath Placement Ceremony – Requested by Councilmember Daige**

Mr. Daige asked for a consensus from Council that when the Wreath Placement Ceremony occurs at the Courthouse that the Airport Director be instructed to ask FAA to reroute planes for this short period while the event is taking place. Council concurred with this request.

Mr. Heady asked Mr. Menger if the Courthouse was in the direct flight path.

Mr. Menger answered no.

2. **Settlement of Lawsuit – Requested by Councilmember Heady**
3. **Water and Sewer Discussion – Requested by Councilmember Heady**

These items were pulled off of the agenda.

4. **Policy for “Old Business” and “New Business” on Agenda – Requested by Councilmember Daige**

Mr. Vitunac recalled that at the May 4th City Council meeting, Councilmember Daige asked what types of items should go under “New Business” and “Old Business” on their meeting agendas. He has provided a memo that outlines this.

Mr. Daige made a motion that the memo be put in policy form and put in the policy book held in the City Clerk’s office. Mayor Sawnick seconded the motion.

Mr. Heady commented that it was mind boggling to him the extent that Councilmembers will go through to tie their own hands. He said that their meetings should be a lot freer and he would like to see a rule made that there are no new rules.

The motion passed 3-1 with Mr. Heady voting no.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

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

Mayor Sawnick reported that he attended Law Week at a local high school, he attended National Day of Prayer and took a tour of Harbor Branch.

Mayor Sawnick reported on some future events. He said that on May 20th there will be a public meeting concerning the Amtrak train, then on May 21st they will be having Coffee with the Council, on May 23rd there will be Bridge Dedication at Pelican Island, and on May 23rd this month's Mayor's Beach Cleanup will be held at Waldo's.

B. Vice Mayor Sabin Abell's Matters

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

There was no report given by Mr. Abell.

C. Councilmember Tom White's Matters

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

Mr. White reported on the Beach and Shore Preservation Commission meeting. He said that tomorrow he would be attending a Treasure Coast League of Cities meeting at the FP&L Encounter Center. He then read a letter that the Council received from the City Manager stating that the Mayor along and some staff members would be attending a meeting with FP&L on June 3rd. Mr. White continued with his Committee report saying that on Sunday he attended a Treasure Coast Women's banquet for their 30th Anniversary and he also presented a Key to the City to a 103 year old woman.

D. Councilmember Brian Heady's Matters

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

Mr. Heady asked if he could attend the meeting with staff and FP&L and he was told that he could not attend (Sunshine Law).

- A) Public Business in the public eye**
- B) Liars, Cheats and Thieves**
- C) Bad info, bad decisions, being prepared**
- D) Correspondence**

Mr. Heady stated that he did file a lawsuit in Federal Court because he has told Council on numerous occasions that if they continued to stonewall and staff did not answer pertinent questions he would file a Federal case. He has put the City on notice several times about that and he has gone through with that promise. The City Attorney and City Manager saw fit last week to hire a \$300.00 an hour attorney to fight the lawsuit, which if the answers were to be answered then the lawsuit would go away. The questions that he has with respect to the OUC contract is that there were numerous changes to the signed document, which the Council was never aware of. He said that former Mayor White has admitted that he was not aware of any of those changes. He said rather than fight this whole thing in court, if they think that it is a good contract then bring the contract back that has all the changes in front of the Council and let them approve all of the changes. He said this really is not all that difficult. Instead what they do is make things difficult and if they were really interested in saving tax payers dollars then they would debate the issues publically and if it is a good contract then it will probably pass considering that three of the sitting Councilmembers voted for the contract in the first place. If the contract passes then you have a legally enforceable contract and they are not caught some place down the road with questions as to the enforceability.

Mr. Heady expressed that public business needs to be conducted in the public eye. He said that it was unfortunate that Councilmembers are not allowed to sit in on the meeting with FP&L.

Mr. Heady recalled that at a recent meeting the Mayor was discussing an item on how to “muzzle” this Councilmember and there was a motion before the Council to vote on it. He knew that the policy was strictly written for him. When he asked the Mayor if there was anyone else involved the Mayor said no and admitted that it was written for him. He then asked the Mayor if they do this in any other cities and the Mayor assured him that they do it all over the Country and the State. He then asked him where and for the Mayor to provide him with information on some cities that enforce this. He still has not received this information. The only name of any town that the Mayor has been given is Hillsprings, Montana, which he has not been able to find that it exists at all.

Mayor Sawnick told Mr. Heady that he misspoke on that issue.

Mr. Heady then asked the Mayor to give him a couple of examples (different cities) that do this.

Mayor Sawnick told Mr. Heady that he has done his research and Mr. Heady can do his if he wants to.

Mr. Heady said that the Mayor talks about him not providing backup and then when he asks him for the names of some different cities he says he has done his research and I should do mine. Mr. Heady asked Mayor Sawnick if that really was going to be his answer.

Mayor Sawnick asked Mr. Heady to move on. Mr. Heady asked the Mayor again if that really was his answer.

Mayor Sawnick explained that backup material is to inform the public what is going on. He said that there are a lot of things that Mr. Heady talks about and he has not seen any backup.

Mr. Heady told the Mayor that what they are talking about now is that he (Mayor Sawnick) said that there are cities all over the Country and State doing this and you had the list of cities. He asked him if he would provide this information and now the Mayor is telling him that he can do his own research.

Mayor Sawnick told Mr. Heady that he could type in "Google" to find this information. He said that he was over this issue.

Mr. Heady said that the Mayor might be over this issue, but he (Mr. Heady) still has questions. He then asked the Mayor again if he could provide him with the cities that he used for his determination on this issue. He asked the Mayor will he or can he provide that information. He asked him could he do what he said that he was going to do.

Mayor Sawnick told Mr. Heady if it will make him happy then sure he will give him a list of a few cities that he has. He said that he would send out a memo.

Mr. Heady mentioned that there is a video dated 8/12/08 in which the City Manager addressed the County Commission. He has asked before and he will ask again can we put that DVD up for the public to see and then he has some questions in regard to that DVD.

Mayor Sawnick told Mr. Heady that he could put that item on the next agenda under Old Business with an explanation on why he wants it shown. He could make a motion to show the video and then they will go from there.

Mr. Heady made the request that this be added to the agenda in the appropriate spot and then they can show the video during that portion of the meeting.

Mayor Sawnick stated that it could be done if a motion passes to show it.

Mr. Heady felt it was important that the public be aware of some serious issues and it has relevant information that the Council should discuss when they discuss the sale of their utilities.

Mr. White called for Point of Order. He said that this video was at a public meeting, minutes have been transcribed, and Mr. Heady has received a copy of the minutes, which were done verbatim as to what Mr. Gabbard stated at that meeting.

Mr. Heady did not believe the comments just made by Mr. White were true. He also mentioned that at a previous Council meeting, Mr. Daige asked Mr. Gabbard if he could put in writing his response to the questions on that video. He said that we have not received that memo from Mr. Gabbard. He once again asked that this item be put on the agenda and that the written comments that Mr. Daige asked for be provided to Council by the City Manager. He said that they shouldn't have to file Federal lawsuits to discuss public business in the public eye. He said that Councilmembers should not be running interference when a staff member tells them something or another entity something on an important issue, they should be able to see the backup on it. He went on to say that it is a shame that a Federal lawsuit has to be filed in order to get questions answered. He said that it is a terrible waste of taxpayers' money and it is not him wasting taxpayers' money, it is their refusal to answer public questions in the public eye.

E. Councilmember Ken Daige's Matters

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

Mr. Daige asked the City Manager to report back to the Council on the meeting that they have with FP&L. He said if there is information discussed at the meeting that cannot be made public he would like to know that they are restricted on some of the things that they can report back on.

Mr. Gabbard explained that FP&L has made it clear that this meeting is just to review some analysis and that no negotiations will be taking place.

Mr. Daige went through his Committee report (please see attached). He then asked about the fence going around the Vero Man Site.

Mr. Menger reported that the fence for the Vero Man Site is being installed and should be completed within the week.

11. ADJOURNMENT

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

/tv

5-A)

DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager

FROM: Timothy J. McGarry, AICP
Director of Planning and Development 

DATE: May 7, 2010

SUBJECT: **First Reading of Ordinances to Amend the Future Land Use Map to Re-designate ±1.76 Acres from C to RH and Amend the Zoning Map to Rezone those ±1.76 Acres from C-1 to RM-10/12, Requested by Vero Property Investment, LLC**

Request

The Planning and Development Department requests that the attached proposed ordinances, to amend the Future Land Use Map and amend the Official Zoning Map, be placed on the City Council's May 18, 2010, meeting agenda for First Reading.

Agenda Contents

The staff report prepared for this agenda item is attached, along with the applications submitted by Vero Property Investment, LLC, and the proposed ordinances. The Planning and Zoning Board recommended approval of the requests to amend the future land use and zoning maps. The official minutes from the Planning and Zoning Board public hearing will be provided prior to the Council's public hearing to consider the ordinances.

Recommendation

The staff recommends that the City Council approve the scheduling and noticing of the public hearing (June 15, 2010) for these ordinances.

TJM:cbf/uf
Attachments

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Timothy J. McGarry, AICP 
Director of Planning and Development

DATE: May 7, 2010

SUBJECT: **Request by Vero Property Investment, LLC (Applicant) to Amend the Future Land Use Map to Re-designate ±1.76 Acres from C, Commercial to RH, Residential High; and to Rezone those ±1.76 Acres from C-1, Highway Oriented Commercial to RM-10/12, Medium and High Density Multiple-Family Residential District (Applications #C10-000001-FLUM-MAP and #Z10-000002-MAP)**

Request

The City Planning and Development Department received the attached applications requesting the following: a small scale comprehensive plan future land use map amendment to re-designate ±1.76 acres from C, Commercial (up to 15 dwelling units/acre) to RH, Residential High (up to 15 dwelling units/acre); and a zoning map change amendment to rezone those ±1.76 acres from C-1, Highway Oriented Commercial District to RM-10/12, Medium and High Density Multiple-Family Residential District. The subject property is located east of the northeast intersection of 21st Street (US Highway 1) and 10th Avenue.

Description and Conditions

General Summary

Applicant:	Vero Property Investment, LLC.
Location:	East of northeast intersection of 21 st Street (US Highway 1) and 10 th Avenue.
Acreage:	±1.76 acres.
Existing Land Use Designation:	C, Commercial (up to 15 units/acre).
Requested Land Use Designation:	RH, Residential High (up to 15 units/acre).
Existing Zoning:	C-1, Highway Oriented Commercial (0 units/acre).

Requested Zoning: RM-10/12, Multiple-Family Residential (up to 12 units/acre).

Existing Land Uses: Office building (formerly Michael Thorpe Real Estate), vacant building (formerly Kane's Appliances), paved area.

Adjacent Land:

North: Royal Palm Convalescent Center and multi-family residential apartments; zoned RM-10/12, Multiple-Family Residential

South: (Across 21st Street [US Highway 1]) RBC Bank and vacant commercial building; zoned C-1, Highway Oriented Commercial

East: Bill's Auto Repair; zoned C-1, Highway Oriented Commercial

West: Vacant building (formerly Citgo gas station) and Royal Palm Convalescent Center accessory administrative office; zoned C-1, Highway Oriented Commercial

Future Land Use Pattern

The subject property and the properties to the south, east, and west are designated C, Commercial District on the City's future land use map. The C designation permits various commercial, office, and multi-family residential zoning districts (up to 15 dwelling units per acre). Land to the north of the subject property is designated RH, Residential High District (up to 15 dwelling units/acre), on the City's future land use map. The RH designation permits residential densities up to 15 dwelling units per acre and professional office and institutional uses.

Existing Land Use Pattern

The subject property consists of two abutting parcels under the same ownership. The parcels total ± 1.76 acres in size. Both parcels are zoned C-1, Highway Oriented Commercial District on the City's zoning map. Both properties are developed and, currently, the smaller parcel (0.52 acre) to the west is not in use but contains a vacant building (formerly Kane's Appliance Store) and a paved surface parking area. The larger parcel (1.24 acres) to the east contains an office building, which is currently in use (formerly the Michael Thorpe Realty Building).

To the west, the subject property abuts the currently closed Citgo gas station site and a building that is used as accessory office space for the Royal Palm Convalescent Center, which are zoned C-1, Highway Oriented Commercial District, and are under the same ownership as the subject property. The abutting properties to the north of the subject property are zoned RM-10/12, Medium and High Density Multiple-Family Residential District and contain multi-family residential apartments and the Royal Palm Convalescent Center (also under the same ownership as the subject property). To the east, the abutting

property is also zoned C-1, Highway Oriented Commercial District and contains an auto repair shop (Bill's Auto Repair). To the south, the subject property abuts 21st Street (US Highway 1). Across 21st Street (US Highway 1) is the RBC Bank site and a vacant building, which are zoned C-1, Highway Oriented Commercial District.

Environment

The Comprehensive Plan does not designate the subject property as environmentally significant or sensitive. According to the Flood Insurance Rating Maps, the parcels are within the X-Other Areas flood zone.

Utilities and Services

The property is within the Urban Service Area of the City. The property is located in the City's current water and sewer service area and capacity is available in the system to provide necessary services. The property is located within the City's electric service area.

Transportation System

The subject property's south boundary abuts and has frontage on 21st Street (US Highway 1), which is classified as an urban principal arterial on the future roadway classification plan map, and is a state road. This segment of 21st Street (US Highway 1) is a four lane, paved road with approximately 70 feet of existing public road right-of-way.

Zoning District Differences

The existing C-1, Highway Oriented Commercial zoning district and the proposed RM-10/12, Medium-and High-Density Multiple-Family Residential zoning district permitted uses are identified below.

Permitted uses in the existing C-1 zoning district include various highway oriented commercial uses, such as professional offices, banks and financial institutions, general retail sales and services, restaurants, medical services, vehicular sales and services, et. al.

Permitted uses in the proposed RM-10/12 zoning district include single-family residential, duplexes, multiple-family residential, adult congregate living facilities, and nursing homes.

Review and Analysis

The staff reviewed the proposed future land use map amendment and zoning map change based on the standards for considering amendments as required in Chapter 65, Article III, of the City's Land Development Regulations. Section 65.22(i) sets the standards for amendments and states amendments shall be consistent with the goals, objectives, and

policies of the Comprehensive Plan, zoning district standards and criteria, and all applicable requirements of Chapter 163, Florida Statutes.

Comprehensive Plan Consistency

Staff evaluated the subject request for consistency with all applicable comprehensive plan policies and objectives. Of particular applicability for this request are the policies discussed below.

Policy 1.6 of the Land Use Element states that the Residential High (RH) Land Use Designation “shall be applied to areas of the City which are suitable for multi-family residential uses with high densities, based on access to public utilities, adjacent to arterial or collector streets, which are a transition between multi-family and more intensive uses.” The proposed land use map amendment and rezoning request is found to be consistent with Policy 1.6 as the subject property has access to public utilities, is adjacent to a principal arterial street (US Highway 1) and is compatible with immediately adjacent zoning and uses.

Policy 3.3 of the Land Use Element states that “higher density residential uses shall be located on sites highly accessible to arterial or collector streets and near employment centers and goods and services.” The subject property is accessible to US Highway 1 and is located near the City’s downtown and Miracle Mile commercial areas.

Policy 2.3 of the Land Use Element states “land use designations and regulations shall be used to limit future strip commercial development along roadway thoroughfares.” Since the proposed amendments would provide an opportunity for a variation in land uses along this area of the US Highway 1 corridor, the request is consistent with Policy 2.3.

Compatibility with the Surrounding Area

To the north and adjacent to the subject property the future land use designation is Residential High (RH) and the current zoning is RM-10/12. Re-designating and rezoning the subject property will result in a continuation of the same future land use designation and zoning to the south. Properties to the south, east and west of the subject property have commercial land use designations and zoning and should be compatible with the proposed amendments, as high density residential land uses are considered to provide a good transition and/or buffer between more intensive commercial uses.

Impacts on Available Public Facilities

Staff reviewed the potential development impacts of the requested land use designation and zoning on the potential availability of public facilities. The analysis included the potential available capacity of each facility and determined that there is sufficient sanitary sewer, potable water, solid waste, recreation and transportation capacity to accommodate any additional demand generated by the proposed change in land use and zoning. From a

traffic generation perspective, the impacts are estimated to be less due to the less intensive uses permitted in the RH and RM-10/12 districts.

The change in future land use will not result in an increase in the overall residential density (both land uses allow up to 15 dwelling units per acre). However, rezoning the subject property from C-1 (0 dwelling units per acre) to RM-10/12 (up to 12 dwelling units per acre) would allow for a potential increase in residential density; therefore, potential impacts on school facilities were provided by the applicant via the School District. The School District provided a conditional School Concurrency Availability Determination letter acknowledging the availability of school capacity (based upon an estimated 22 multi-family residential units). The stormwater management level of service standard will be met by limiting off-site discharge to the existing predevelopment rate.

Consistency with Zoning District Standards and Criteria

The stated purpose of the RM-10/12 Zoning District is to “provide suitable areas for high-density residential development where sufficient urban services and facilities are provided.” As stated above, under the discussion of consistency with the Comprehensive Plan and compatibility with surrounding area, the staff finds that the proposed zoning is consistent with the zoning district standards and criteria.

It should be noted that in the proposed RM-10/12 zoning district professional offices are not permitted uses. Therefore, should the existing office uses currently occupying the building (former Thorpe Realty) on the east side of the subject property remain, these uses will become non-conforming in the new zoning district.

Consistency with City’s Charter & Zoning Limitations

Article V., General Provisions, Section 5.06, of the City’s Charter states the density levels existing in the Zoning Ordinance of the City of Vero Beach, Florida, on August 15, 1989, shall not be increased by action of the City Council unless approved first by voter referendum. It is the City Attorney’s opinion that this section of the Charter applies only to instances where the actual ‘Zoning Ordinance’ itself is being considered for amendment to allow for an increase in density and not amendments to the Official Zoning Map that rezone individual properties or parcels of land. In other words, requests to increase densities from one Zoning District to the other does not require approval by voter referendum; however, requests to increase allowable density levels within individual Zoning Districts or to create a new Zoning District with higher densities would first require a voter referendum. Therefore, based on the City Attorney’s opinion, the proposed rezoning of the subject property is found to be consistent with the provisions in the City’s Charter.

Consistency with Chapter 163, F.S.

As stated above the staff finds the proposed land use amendment and zoning change is consistent with the Comprehensive Plan and Land Development Regulations (Zoning Code).

Planning and Zoning Board Recommendation

The Planning and Zoning Board, at an advertised public hearing, voted 9 to 0 to recommend approval of the two requested map amendments as presented.

Staff Recommendation

Based on the analysis and the Planning and Zoning Board recommendation, staff recommends that the City Council approve this request to amend the future land use map from C, Commercial to RH, Residential High and amend the zoning map from C-1, Highway Oriented Commercial to RM-10/12, Medium and High Density Multiple-Family Residential District by adopting the attached ordinances.

TJM:cbf/tf
Attachments

FUTURE LAND USE MAP (FLUM) AMENDMENT APPLICATION

City of Vero Beach Planning & Development Department

1053 20th Place - P.O. Box 1389

Vero Beach, Florida 32961-1389

Phone (772) 978-4550 / Fax (772) 778-3856

Date Received 2/23/10 Application # C10-000001-FLUM-MAP

Prior to completing or signing this application, applicants and property owners are encouraged to read it thoroughly. If you have any questions, please do not hesitate to contact the Planning Department at (772) 978-4550.

APPLICANT Vero Property Investment, LLC Telephone 423-424-1830
Fax #: 423-308-1834

MAILING ADDRESS 7201 Shallowford Road, Suite 200, Chattanooga, TN 37421

SITE OWNER Vero Property Investment, LLC Telephone 423-424-1830
Fax #: 423-308-1834

OWNER ADDRESS 7201 Shallowford Road, Suite 200, Chattanooga, TN 37421

SITE LOCATION NE Corner of Intersection of US Highway 1 and 10th Avenue
33390100009001000007.0, 33390100009001000001.0

PARCEL I.D. NUMBER 33390100009001000003.0, 33390100009001000011.0

LEGAL DESCRIPTION See attached exhibit A

PROPOSED CHANGE: FROM C TO RH

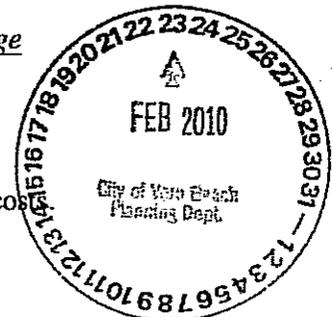
(If this amendment requires a zoning change, a Zoning Change Application must accompany this request.)

Application Fee*

with Zoning Change

Large Scale (More than 10 acres) \$2,800 \$4,100
Small Scale (Less than 10 acres) \$2,100 \$3,000

* See attached fee schedule for additional advertising and administrative costs.



[Signature]
Applicant Signature _____ Date _____

SAUE
Property Owner Signature _____ Date _____

Byron Debor
(Print Name)

(Print Name)

FUTURE LAND USE MAP (FLUM) CHANGE JUSTIFICATION

The applicant shall have the burden for justifying the amendment including identifying specific reasons warranting the amendment. Therefore, unless waived by the Planning Director, as part of the FLUM change request, please provide justification for the proposed change by providing the following required items along with any supporting data and information:

1. Describe why the proposed change is needed, including any change in circumstances to the property or the neighborhood/area in which the property is located that warrant a change in the FLUM designation.
2. Describe how the proposed amendment to the FLUM is compatible with the goals, objectives, and policies of the Land Use Element and other affected elements of the Comprehensive Plan.
3. Describe how the proposed amendment is compatible with the FLUM designations within the immediate vicinity of the property subject to the proposed change and will not lead to undesirable changes to established residential neighborhoods.
4. Provide School Impact Analysis, if allowable residential density is increased, indicating number of potential dwelling units by type. For purposes of dwelling unit type, the applicant shall use single family for ES and RL designations and multi-family for all other designations.
5. Provide data and analysis of the impacts on non-educational school facilities and services subject to the concurrency requirements of the Capital Improvements Element of the Comprehensive Plan. This analysis should show the availability of and demand on the following: sanitary sewer; solid waste; drainage; potable water; roads; and recreation, as appropriate. The demand estimates should be based on the change in demand over the current land use designation for the property and clearly spell out the assumptions used in the demand and availability analysis.

NOTE: If the proposed FLUM change is in combination with a proposed Zoning Map change, required Items 4 and 5 above should be prepared based on the permitted residential densities and non-residential uses and intensities of the proposed zoning district.

ADDITIONAL MATERIALS REQUIRED

The following materials are also required:

1. A copy of the property deed.
2. One original and one copy of submitted materials.
3. A Traffic Impact Assessment or Statement if required by Chapter 910, Indian River County Code.
4. Two (2) sealed surveys prepared by a State of Florida licensed surveyor made and dated within one year and to include existing topographic features, elevations based on mean sea

ZONING MAP CHANGE AMENDMENT APPLICATION

City of Vero Beach Planning & Development Department
1053 20th Place - P.O. Box 1389
Vero Beach, Florida 32961-1389
Phone (772) 978-4550 / Fax (772) 778-3856

Date Received 2/23/0 Application # Z10-000002 -MAP

Prior to completing or signing this application, applicants and property owners are encouraged to read it thoroughly. If you have any questions, please do not hesitate to contact the Planning Department at (772) 978-4550.

APPLICANT Vero Property Investment, LLC Telephone 423-424-1830
Fax #: 423-308-1834

MAILING ADDRESS 7201 Shallowford Road, Suite 200, Chattanooga, TN 37421

SITE OWNER Vero Property Investment, LLC Telephone 423-424-1830
Fax #: 423-308-1834

OWNER ADDRESS 7201 Shallowford Road, Suite 200, Chattanooga, TN 37421

SITE LOCATION NE Corner of Intersection of US Highway 1 and 10th Avenue
33390100009001000007.0, 33390100009001000001.0

PARCEL I.D. NUMBER 33390100009001000003.0, 33390100001000000015.0

PROPOSED ZONING CHANGE: FROM C-1 TO RM-10/12

(If this amendment requires a comprehensive plan change, a future land use map amendment application must accompany this request.)

Application Fee* with Future Land Use Change

Large Scale (More than 10 acres) \$3,370 \$4,100
Small Scale (Less than 10 acres) \$2,600 \$3,000

* See attached fee schedule for additional advertising and administrative costs.



[Signature]
Applicant Signature Date

SAME AS APPLICANT
Property Owner Signature Date

Byron DeFoe
(Print Name)

||
(Print Name)

ZONING MAP CHANGE JUSTIFICATION

The applicant shall have the burden for justifying the amendment including identifying specific reasons warranting the amendment. Therefore, unless waived by the Planning Director, as part of the Zoning Map change request, please provide justification for the proposed change by providing the following required items, including any supporting data and information:

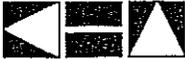
1. Describe why the proposed change is needed, including any change in circumstances to the property or the neighborhood/area in which the property is located that warrant a change in the Zoning Map designation.
2. Describe how the proposed amendment to the Zoning Map is compatible with the goals, objectives, and policies of the Land Use Element and other affected elements of the Comprehensive Plan and consistent with zoning district standards and criteria.
3. Describe how the proposed amendment is compatible with the Zoning Map designations within the immediate vicinity of the property subject to the proposed change and will not lead to undesirable changes to established residential neighborhoods.
4. Provide School Impact Analysis, if allowable residential density is increased, indicating number of potential dwelling units by type. For purposes of dwelling unit type, the applicant shall use single family units for R-1AAA through R-1 and multi-family for all other zoning districts.
5. Provide data and analysis of the impacts on non-educational school facilities and services subject to the concurrency requirements of the Capital Improvements Element of the Comprehensive Plan. This analysis should show the availability of and demand on the following: sanitary sewer; solid waste; drainage; potable water; roads; and recreation, as appropriate. The demand estimates should be based on the change in demand over the current land use designation for the property and clearly spell out the assumptions used in the demand and availability analysis.

NOTE: If the proposed Zoning Map change is in combination with a proposed FLUM change, required items 4 and 5 above should be prepared based on the permitted residential densities and non-residential uses and intensities of the proposed zoning district.

ADDITIONAL MATERIALS REQUIRED

The following materials are also required:

1. A copy of the property deed.
2. One original and one copy of submitted materials.
3. A Traffic Impact Assessment or Statement if required by Chapter 910, Indian River County Code.



Kimley-Horn
and Associates, Inc.

Copy



February 23, 2010

147090000

■
Suite 300
601 21st Street
Vero Beach, Florida
32960-0861

Sherry Fitzgerald, AICP
City of Vero Beach
Planning and Development Department
1053 20th Place
Vero Beach, FL 32960

RE: Vero Property Investment, LLC
Zoning Map Change and Future Land Use Map (FLUM) Amendment Application

Dear Sherry:

Vero Property Investment, LLC holds fee simple title to 2.5+/- acres of land in the City of Vero Beach. The property consists of three parcels located contiguous to each other at the northeast corner of the intersection of US Highway 1 and 10th Avenue. The uses on site at the present time include a Citgo gas station (closed), a single family residence adjacent to Citgo to the north (currently used as office space for the Royal Palm Convalescent Center, and a small commercial building occupied by Kane's Appliance. The applicant has also recently purchased the parcel adjacent to the east, the building previously owned by Michael Thorpe which is a small office strip center. A vicinity map of these parcels is included in this application packet.

The Future Land Use designation of these properties is C-Commercial. All four properties are currently zoned C-1, Commercial.

The applicant also owns a 2.76 +/- acre parcel immediately north of the subject properties, which is occupied by the Royal Palm Convalescent Center. That property has a Future Land Use designation of RH and a zoning designation of RM-10/12.

The applicant is requesting a Future Land Use Map change to RH, and a zoning map change to RM-10/12 for all of the additional properties except for a parcel at the corner. This will make the FLU and Zoning consistent with that of the Convalescent Center property. Application forms and supporting documentation for this request are attached. If you have any questions, please contact me at 772/794-4035.

Sincerely,
KIMLEY-HORN AND ASSOCIATES, INC.

Keith A. Pelan, RLA, AICP
Senior Associate

■
TEL 772 562 7981
FAX 772 562 9688



Kimley-Horn
and Associates, Inc.

March 15, 2010

☐
Suite 200
445 24th Street
Vero Beach, Florida
32960

Mr. Tim McGarry
Director of Planning and Development
City of Vero Beach
1053 20th Place
Vero Beach, Florida 32961

Re: Additional information – Vero Property Investment, LLC request for Future
Land Use and Zoning Map amendment (Applications #C10-000001-FLUM-MAP &
#Z10-000002-MAP)

Dear Tim:

Pursuant to your letter of March 4, 2010, please accept the following supplemental
information in support of the above mentioned application.

Compatibility with Land Use Element

Objective 1, Policy 1.6: The Residential High (RH) Land Use designation shall be applied to areas of the city which are suitable for multifamily residential uses with high densities, based on access to public utilities, adjacent to arterial or collector streets, which are a transition between multifamily and more intensive uses. This land use category shall allow single and multifamily residential development, park and recreation uses, public facilities, institutional uses, schools, cultural and civic uses, utilities, professional offices (as permitted by Land Use Element Policy 1.16), and non-residential uses within a master plan development pursuant to Policy 1.21.

The request is consistent with this policy as the property has access to public utilities, is adjacent to an arterial street (US 1) and is compatible with immediately adjacent zoning and uses.

Objective 2, Policy 2.4. Redevelopment programs and incentives shall be established to foster infill development and revitalization of older areas of the City.

Although the proposed rezoning and FLU Map amendment request is not receiving any incentives, it does constitute infill development and revitalization of some older and prime redevelopment properties.

Objective 3, Policy 3.3. Higher density residential uses shall be located on sites highly accessible to arterial or collector streets and near employment centers and goods and services.

☐

TEL 772.94.4100
FAX 772.94.4130



Kimley-Horn
and Associates, Inc.

The subject site is accessible to US 1 and is near many goods and services.

Objective 3, Policy 3.5. Development shall be planned and regulated in such a manner to provide for an orderly transition from low intensity/density uses to higher intensity/density uses.

The subject site provides this transition and is a good buffer between the high density residential use to the north and east and US 1.

Objective 3, Policy 3.7. Land development regulations shall include provisions for on-site stormwater retention/detention, safe and convenient access and traffic flow, and minimum open space and landscaping sufficient to avoid or minimize impacts on adjacent properties while adequately meeting on-site needs.

Rezoning the subject property will allow the redevelopment of not only this property, but an adjacent property to the north. In so doing, the entire site will be improved in many ways, including stormwater management (which the current property has no provisions for), and landscape.

Objective 3, Policy 3.8d. Minimum open space and landscaping standards and requirements to conserve native vegetation and buffer potentially incompatible land uses.

The redevelopment of the subject site will require that the landscape be brought up to current standards.

Compatibility with Housing Element

Objective 2, Policy 2.2. The City of Vero Beach, through its future land use plan map, hereby designates land for residential land uses and support services for a wide variety of housing types (including mobile homes), densities, and physical environments to facilitate an equally-wide variety of housing costs for present and future residents with special consideration given to the following:

- Lot sizes, setbacks and land use mixes;
- Proximity to public transportation, recreational facilities, and community services, such as shopping, personal services, and health care;
- Compatibility of land use relationships and neighborhood character; and
- Reduction of automobile travel to meet normal daily needs for access to employment, services, recreation and other local activities.

The FLUM amendment request furthers this policy by allowing residential uses in a location convenient to both commercial uses and residential neighborhoods.

Compatibility with Traffic Circulation Element



Kimley-Horn
and Associates, Inc.

Objective 1, Policy 1.7. No development project shall be approved if the projected impacts of the project would serve to reduce service levels of any roadway on the traffic circulation system below the standards identified in Policy 1.1. . . .

The FLUM amendment request actually constitutes a reduction in land use intensity, thereby reducing overall traffic impacts.

Density Comparison

The subject property's current zoning designation is C-1, Commercial, which does not allow residential uses. Typical commercial intensity for a property of this size (1.76 acres) would be around 17,600 s.f. (using an estimated 10,000 s.f. per acre of commercial development). From a traffic perspective, the most intense uses allowed in this district would be Financial Institutions or Restaurants.

The proposed zoning of RM-10/12 would allow up to 22 residential units on the property. Of the permitted uses in this district, Single Family residential would have the highest estimated traffic generation, but would still be less than any of the commercial uses allowed in the C-1 district.

School and Recreation Impacts

The school concurrency determination form is attached. Per the City's Comprehensive Plan, there are more than adequate recreational facilities in the City to accommodate the number of residential units allowed under the proposed zoning designation.

Solid Waste Impacts

The City projects an average of 2.07 persons per housing unit in Table 3.9 of the Housing element of the Comprehensive Plan. At the maximum density of 12 units/acre under the proposed zoning, the 22 units allowed would house 46 persons. Solid waste generation is estimated to be 1.14 tons per person per year (as referenced in the Sanitary Sewer and Solid Waste element), resulting in a total of 52.5 tons of solid waste per year.

Solid waste generated in the City is disposed of in the County landfill. The September 13, 2005 amended supplement to the Solid Waste Sub-element of the County's comprehensive plan states that the County has sufficient solid waste disposal capacity, for the next 25 years (to year 2030).

Traffic Impact Analysis

Attached is a copy of e-mail correspondence from Jeanne Bressett at Indian River County confirming no traffic impact analysis or statement is required.



Kimley-Horn
and Associates, Inc.

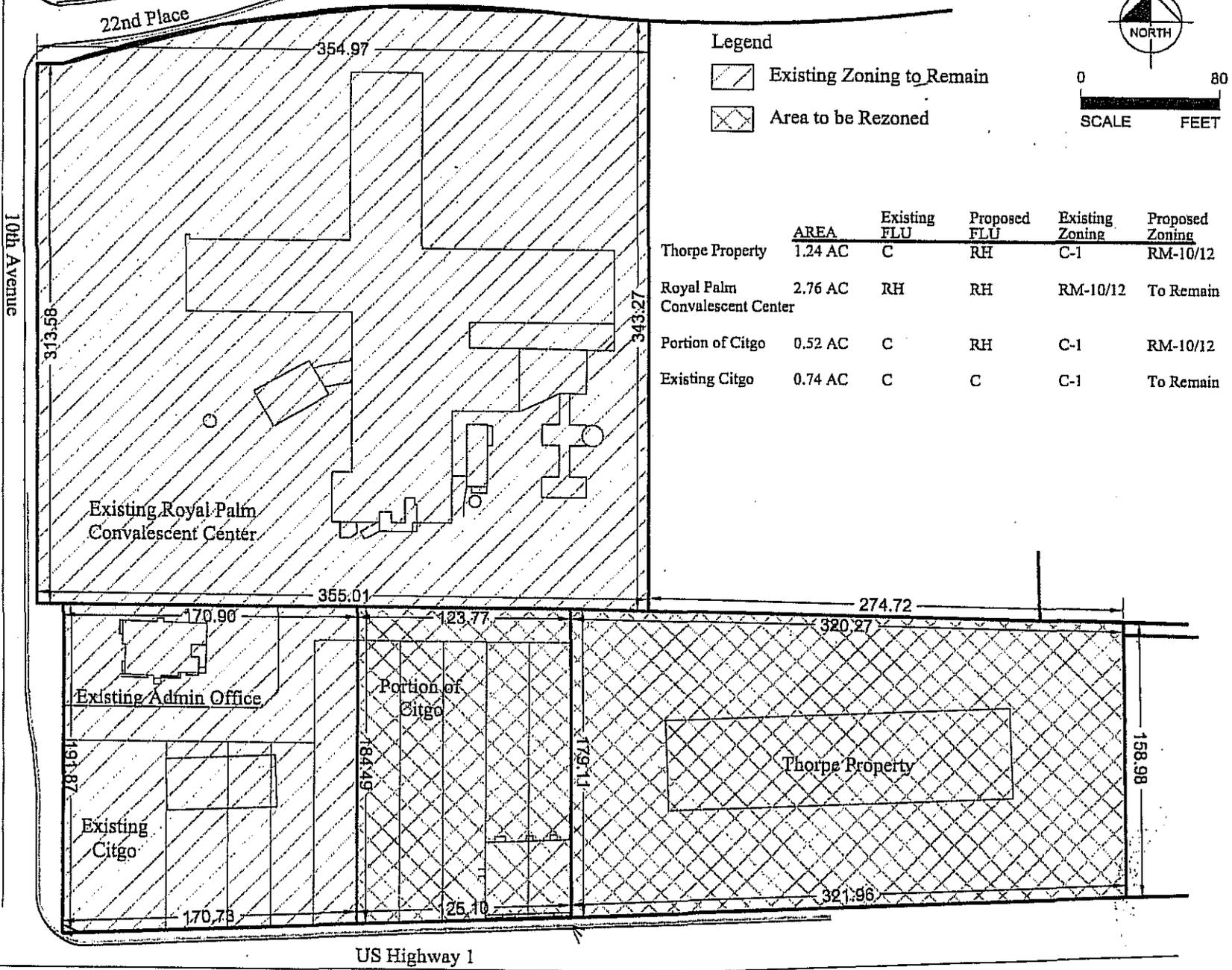
I trust this information will complete the submittal. If you have questions or need additional information, please call.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

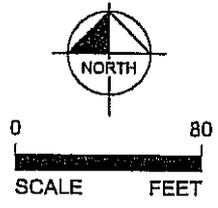
A handwritten signature in black ink, appearing to read 'K. Pelan', with a long horizontal line extending to the right.

Keith A. Pelan, RLA, AICP, GRP
Senior Associate



Legend

- Existing Zoning to Remain
- Area to be Rezoned



	AREA	Existing FLU	Proposed FLU	Existing Zoning	Proposed Zoning
Thorpe Property	1.24 AC	C	RH	C-1	RM-10/12
Royal Palm Convalescent Center	2.76 AC	RH	RH	RM-10/12	To Remain
Portion of Citgo	0.52 AC	C	RH	C-1	RM-10/12
Existing Citgo	0.74 AC	C	C	C-1	To Remain

Kimley-Horn and Associates, Inc.
 2010 KIMLEY-HORN AND ASSOCIATES, INC.
 601 EAST STREET, SUITE 300, VERO BEACH, FL 33580
 PHONE: 772-562-7480 FAX: 772-562-8845
 WWW.KIMLEY-HORN.COM CA 0000098

DESIGN ENGINEER: KEITH A. PELAN
 FLORIDA P.E. LICENSE NUMBER: 1688
 SCALE: _____
 DESIGNED BY: _____
 DRAWN BY: _____
 CHECKED BY: _____
 DATE: _____

ZONING/ LAND USE EXHIBIT

DATE: 01/26/10
 PROJECT NO.: 147090000
 SHEET NUMBER: _____

Indian River County School District

School Concurrency Availability Determination

Project Name: Vero Property Investment, LLC
Date Received: 3/12/2010
Case Number: 123
Builder Name: Vero Property Investment, LLC
Location: 870 - 940 21st Street
 Vero Beach, FL 32960
 NE Corner US# (21st ST) & 10th
 Avenue
 Parcel ID# 33390100001000000015.0

Project Unit Yield By Type of School

Yield Elem Mid High

Multi-Family	0.037	1		
Multi-Family	0.015		0	
Multi-Family	0.014			0

Project Planned Units:

Single Family: 0 # Multi-Family: 22
 # Townhomes: 0 # Apartments: 0

Additional Information: Mailing Address:
 Keith Pelan/Kimley-Horn And Associates, Inc.
 445 24th Street
 Suite 200
 Vero Beach, FL 32960

Service Area Analysis

School Service Area Boundary (SSAB)	Current Capacity	Programmed Capacity	Total Capacity	Current Enrollment	Vested Demand	Total Demand	Available Capacity	Project Demand
Vero Beach ES	559	191	750	535	3	538	212	1
Gifford MS	1122	0	1122	969	1	970	152	0
Vero Beach HS	2771	0	2771	2685	4	2689	82	0

This letter is in response to a Concurrency Determination Request for Project Vero Property Investment, LLC – 870 – 940 21st Street, Vero Beach, FL 32960. This project is located in the SSAB for Beachland Elementary, Gifford Middle School and Vero Beach High School. At this time the SSAB ***DOES NOT*** have sufficient space available at Beachland Elementary to accommodate the students projected to be generated from this Project (please see attached School Concurrency Availability Determination). The adjacent Elementary School with available capacity is Vero Beach Elementary School.

Please note that when a SCADL is issued, the SCADL shall note the School Service Areas and their Available School Capacity. This does not mean that the development's students will attend the adjacent school. The School District will be responsible for determining when and what adjustments will be made in the future to maintain the adopted level of service.

Date: March 25, 2010 147090000
To: Cheri Fitzgerald, AICP
From: Keith Pelan
Re: Supplemental Information,
Vero Property Investment, LLC
Zoning Map Change and Future Land Use Map (FLUM) Amendment Application

Below is additional information regarding the above referenced request.

Sanitary Sewer

City of Vero Beach wastewater service is available to the site. Based upon the most intense use allowed under the requested FLU and Zoning Map change the subject site will have a wastewater generation rate of approximately 22 Equivalent Residential Units (ERU) or 5,500 gallons per day (1 ERU = 250 gallons per day). The City of Vero Beach Wastewater Treatment Plant has sufficient capacity to accommodate the wastewater generated by the most intense use of the stated request as referenced in the comprehensive plan.

Potable Water

City of Vero Beach water supply is available to the site. Based upon the most intense use allowed under the requested FLU and Zoning Map change the subject site will have a wastewater generation rate of approximately 22 Equivalent Residential Units (ERU) or 5,500 gallons per day (1 ERU = 250 gallons per day). The City of Vero Beach Water Plant has sufficient capacity to accommodate the water demand by the most intense use of the stated request as referenced in the comprehensive Plan

I trust this adequately responds to your request for more information.

5-A)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, REQUESTED BY VERO PROPERTY INVESTMENT, LLC, TO AMEND THE COMPREHENSIVE PLAN FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION FROM C, COMMERCIAL (UP TO 15 DWELLING UNITS/ACRE) TO RH, RESIDENTIAL HIGH (UP TO 15 DWELLING UNITS/ACRE) FOR THE PROPERTY GENERALLY LOCATED EAST OF THE NORTHEAST CORNER OF THE INTERSECTION OF 21ST STREET (US HIGHWAY 1) AND 10TH AVENUE, INCLUDING ALL OF THE REPLAT OF HENNING'S SUBDIVISION THAT LIES NORTH OF 21ST STREET (US HIGHWAY 1) AND A PORTION OF BLOCK 1, CITRUS PARK, CONTAINING 1.76 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Vero Property Investment, LLC submitted an application for a small scale amendment to the Comprehensive Plan Future Land Use Map to the City of Vero Beach, pursuant to Chapter 65, Article III, of the City's Land Development Regulations, requesting a change in the future land use map from C, Commercial (up to 15 dwelling units/acre) to RH, Residential High (up to 15 dwelling units/acre) for property comprising 1.76 acres, more or less, generally located east of the northeast corner of the intersection of 21st Street (US Highway 1) and 10th Avenue; and

WHEREAS, the City Council adopted the Vero Beach Comprehensive Plan on July 21, 1992; and

WHEREAS, the property described herein meets the criteria for small scale comprehensive plan amendments, pursuant to Section 163.3187(1)(c) of the Florida Statutes; and

WHEREAS, pursuant to Section 163.3174(4)(a) of the Florida Statutes, the Planning and Zoning Board, acting as the Local Planning Agency, held an advertised Local Planning Agency Public Hearing on the small scale comprehensive plan amendment on April 15, 2010, and made a recommendation regarding the amendment to the Vero Beach City Council; and

WHEREAS, the Vero Beach City Council finds the proposed amendment to the Future Land Use Map to be consistent with the goals, objectives, and policies of the Comprehensive Plan.

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

Section 1. Small Scale Comprehensive Plan Amendment Adoption

The small scale amendment to the Vero Beach Comprehensive Plan identified in Section 2 is hereby adopted, and one (1) copy each is to be transmitted to the State of Florida Department of Community Affairs, the Treasure Coast Regional Planning Council, Indian River County, and others.

Section 2. Small Scale Amendment to the Comprehensive Plan Future Land Use Map

The Comprehensive Plan Future Land Use Map designation, for the property that is located generally east of the northeast corner of the intersection of 21st Street (US Highway 1) and 10th Avenue, comprising 1.76 acres more or less, including all of the Replat of Henning's Subdivision as shown on the Plat thereof as recorded in Plat Book 2, Page 11, of the Public Records of Indian River County, Florida, that lies north of

21st Street (US Highway 1), together with a portion of Block 1, Citrus Park, as recorded in Plat Book 5, Page 28, of the Public Records of Indian River County, Florida, is hereby changed from to C, Commercial (up to 15 dwelling units per acre), to RH, Residential High (up to 15 dwelling units per acre), as graphically depicted in the attached Exhibit "A."

[SEE Exhibit "A"]

Map of Location and Future Land Use of Subject Property

Section 3. Authorization to Transmit Plan Amendment

The City Planning and Development Director is directed to transmit a certified copy hereof to the authorities designated under Section 163.3184(3) Florida Statutes, and proceed herewith in accordance with the provisions of Chapter 163, Part II, Florida Statutes.

Section 4. Effective Date

The effective date of this ordinance is on the 31st day after adoption, as provided by Section 163.3187(3)(c), Florida Statutes.

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

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell, Jr.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian 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**

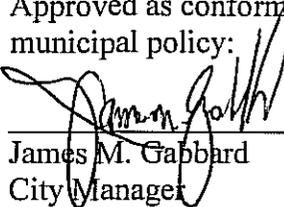
Tammy K. Vock
City Clerk

Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

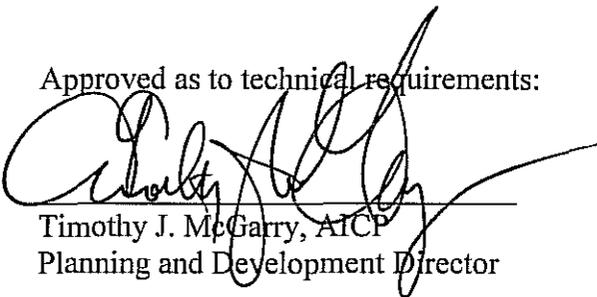
Approved as conforming to
municipal policy:

Charles P. Vitunac
City Attorney

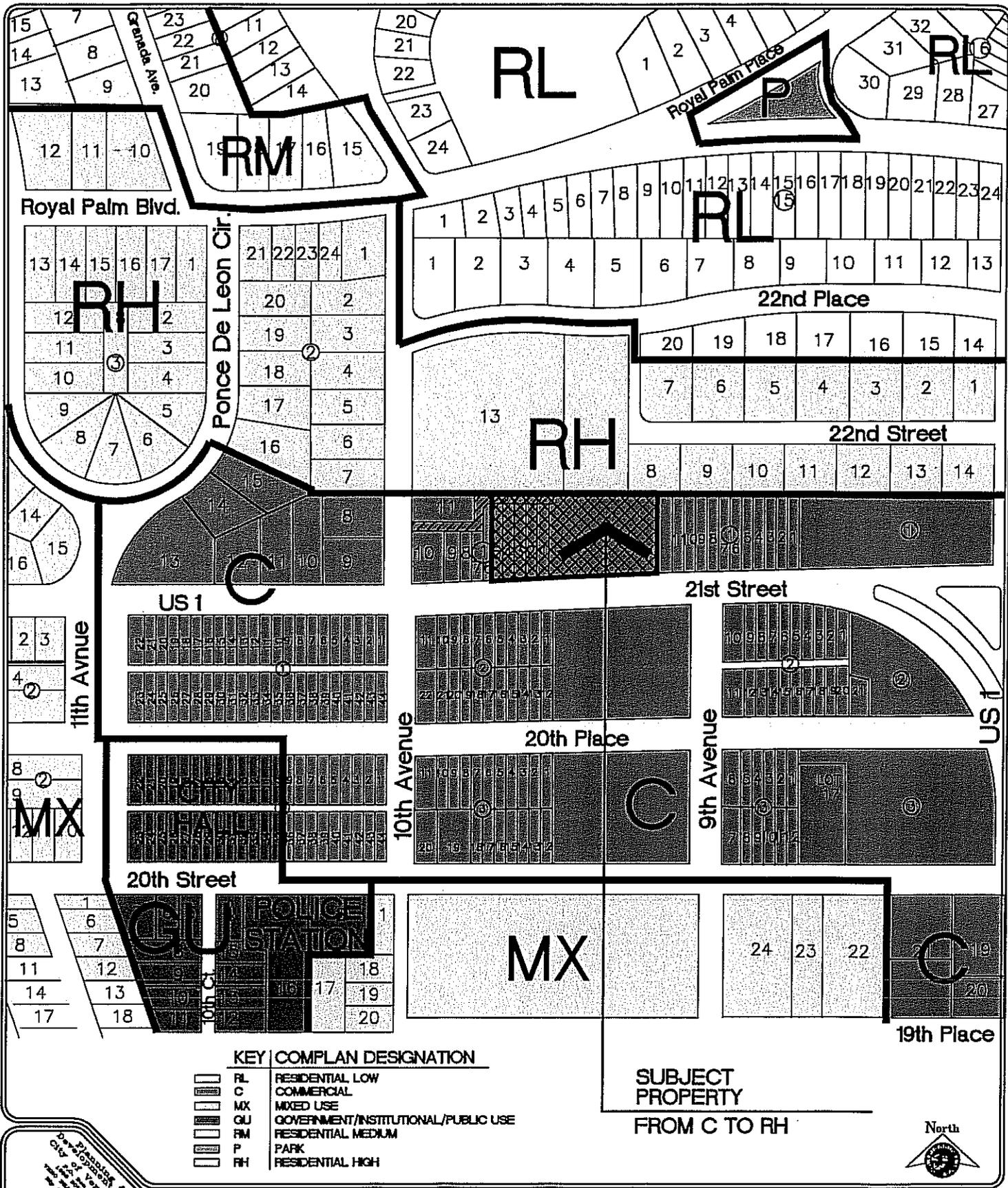


James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director



KEY COMPLAN DESIGNATION	
	RESIDENTIAL LOW
	COMMERCIAL
	MIXED USE
	GOVERNMENT/INSTITUTIONAL/PUBLIC USE
	RESIDENTIAL MEDIUM
	PARK
	RESIDENTIAL HIGH

SUBJECT PROPERTY
FROM C TO RH



LAND USE CHANGE APPLICATION # C10-00001-FLUM-MAP
LOCATION AND LAND USE OF SUBJECT PROPERTY

DATE 03/25/2010
SCALE - NTS
EXHIBIT A

5-B)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, REQUESTED BY VERO PROPERTY INVESTMENT, LLC, TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING DESIGNATION FROM C-1, HIGHWAY ORIENTED COMMERCIAL TO RM-10/12, MEDIUM-AND HIGH-DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT FOR THE PROPERTY GENERALLY LOCATED EAST OF THE NORTHEAST CORNER OF THE INTERSECTION OF 21ST STREET (US HIGHWAY 1) AND 10TH AVENUE, INCLUDING ALL OF THE REPLAT OF HENNING'S SUBDIVISION THAT LIES NORTH OF 21ST STREET (US HIGHWAY 1) AND A PORTION OF BLOCK 1, CITRUS PARK, CONTAINING 1.76 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Vero Property Investment, LLC submitted an application for an amendment to the official zoning map of the City of Vero Beach, pursuant to Chapter 65, Article III, of the City's Land Development Regulations, requesting a change in the official zoning map from C-1, Highway Oriented Commercial to RM-10/12, Medium-and High-Density Multiple-Family Residential District for property comprising 1.76 acres, more or less, generally located east of the northeast corner of the intersection of 21st Street (US Highway1) and 10th Avenue; and

WHEREAS, the Vero Beach City Council has adopted the small scale amendment to the Comprehensive Plan Future Land Use Map to redesignate this property from C, Commercial (up to 15 dwelling units/acre) to RH, Residential High (up to 15 dwelling units/acre); and

WHEREAS, the Planning and Zoning Board held an advertised public hearing on the zoning map amendment on April 15, 2010, and made a recommendation to the Vero Beach City Council; and

WHEREAS, the Vero Beach City Council finds the proposed amendment to the official zoning map to be consistent with the Future Land Use Map and the goals, objectives, and policies of the Comprehensive Plan.

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

Section 1. Amendment to the Official Zoning Map

The City's Official Zoning Map, for the property that is located generally east of the northeast corner of the intersection of 21st Street (US Highway 1) and 10th Avenue, comprising 1.76 acres more or less, including all of the Replat of Henning's Subdivision as shown on the Plat thereof as recorded in Plat Book 2, Page 11, of the Public Records of Indian River County, Florida, that lies north of 21st Street (US Highway 1), together with a portion of Block 1, Citrus Park, as recorded in Plat Book 5, Page 28, of the Public Records of Indian River County, Florida, is hereby changed from to C-1, Highway Oriented Commercial to RM-10/12, Medium-and High-Density Multiple-Family Residential, as graphically depicted in the attached Exhibit "A."

[SEE Exhibit "A"]

Map of Location and Zoning of Subject Property

Page 2 of 4

Plus Exhibit(s) incorporated by reference

Section 2. Effective Date

This ordinance shall become effective upon the effective date of the small scale comprehensive plan amendment.

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

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick

Yes

No

Vice Mayor Sabin C. Abell, Jr.

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

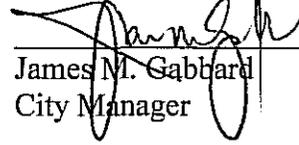
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

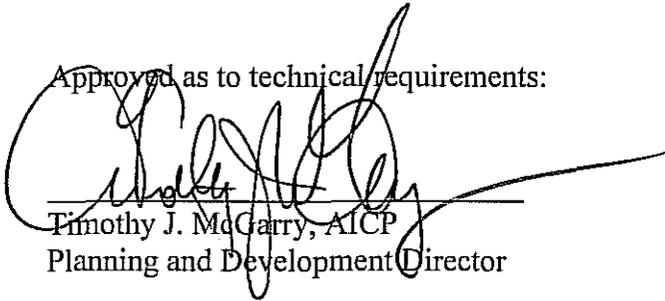


Charles P. Vitunac
City Attorney

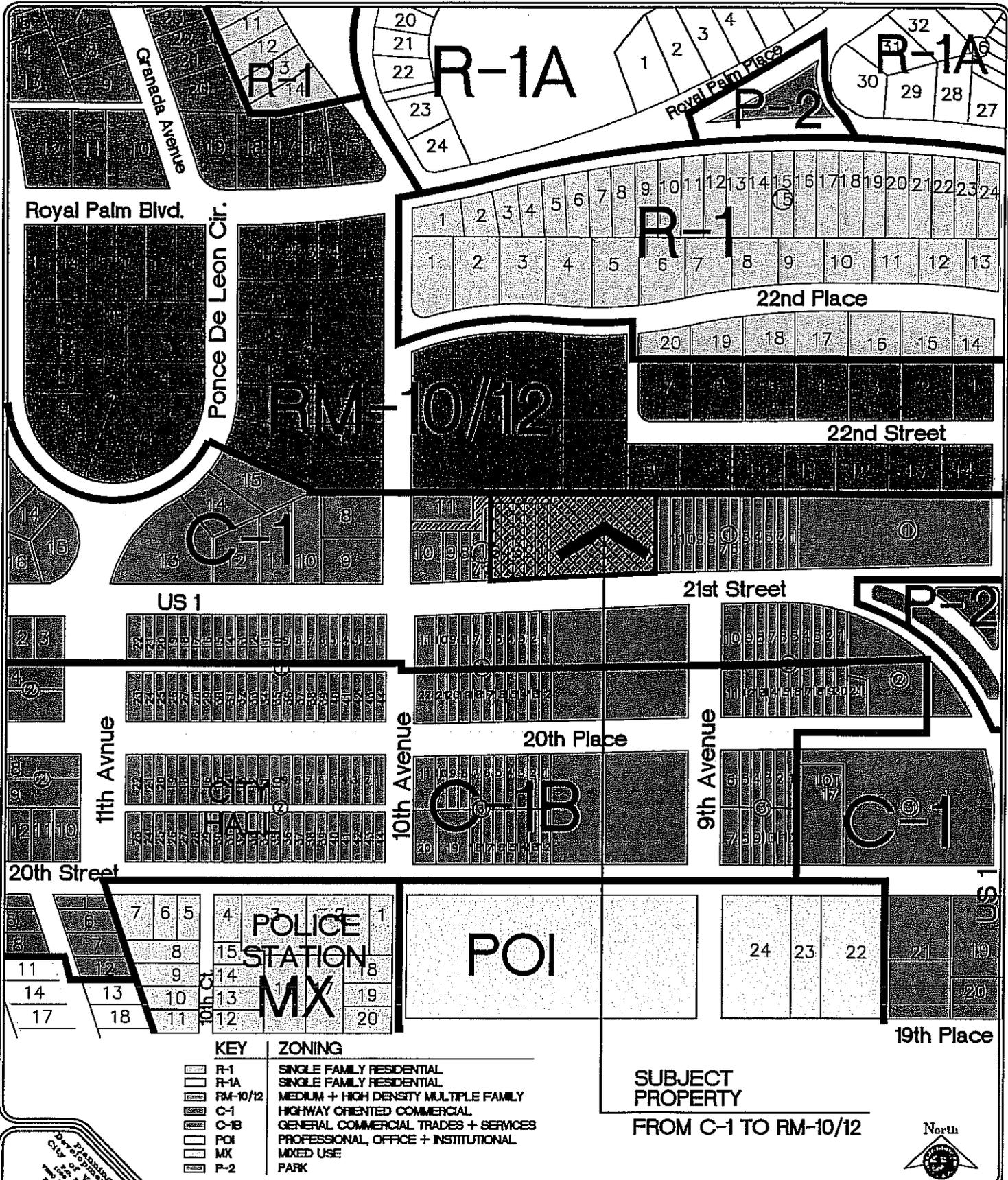


James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director



KEY	ZONING
	R-1 SINGLE FAMILY RESIDENTIAL
	R-1A SINGLE FAMILY RESIDENTIAL
	RM-10/12 MEDIUM + HIGH DENSITY MULTIPLE FAMILY
	C-1 HIGHWAY ORIENTED COMMERCIAL
	C-1B GENERAL COMMERCIAL TRADES + SERVICES
	POI PROFESSIONAL, OFFICE + INSTITUTIONAL
	MX MIXED USE
	P-2 PARK

SUBJECT PROPERTY
FROM C-1 TO RM-10/12



ZONING MAP CHANGE APPLICATION # Z10-000002-MAP
LOCATION AND ZONING OF SUBJECT PROPERTY

DATE 03/25/2010
SCALE - NTS
EXHIBIT A

COUNCIL AGENDA REPORT
MEETING OF MAY 18, 2010

TO: The Honorable Mayor and Members of the City Council

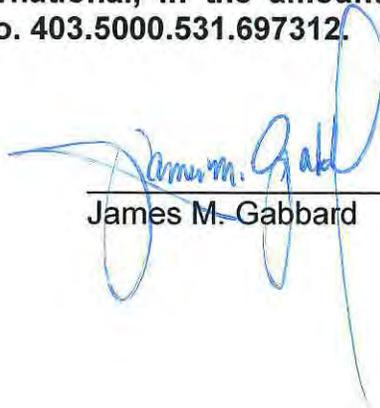
FROM: James M. Gabbard, City Manager

DATE: May 7, 2009

**SUBJECT: AWARD OF RFP NO. 170-10/PJW – UNIT 5 HEAT RECOVERY
STEAM GENERATOR SUPERHEATER RETROFIT**

Attached is a memorandum from Jim Stevens, dated May 5, 2010, which provides background information and a recommendation on the above-referenced subject. A copy of the RFP will be on file in the City Clerk's Office.

It is the recommendation of the City Manager's Office that Council approve the Award of RFP No. 170-10/PJW, for Unit 5 Heat Recovery Steam Generator, to Vogt Power International, in the amount of \$1,281,540.00. Funding will be from Account No. 403.5000.531.697312.



James M. Gabbard

:jav
Attachments

xc: Jim Stevens
John Lee
Stephen Maillet

N:\AGENDA\POWERPLANT\2010\RFP 170-10 - HEAT RECOVERY STEAM GENERATOR SUPERHEATER RETROFIT.DOC

MEMO
VERO BEACH MUNICIPAL POWER PLANT



DATE: May 5, 2010
TO: James Gabbard
City Manager
THROUGH: John Lee *576-516/2010*
Acting Utilities Director
FROM: Jim Stevens *J*
Director of Power Resources
SUBJECT: *Unit 5 Heat Recovery Steam Generator Superheater Tube Replacement*

This memo pertains to the Unit 5 Heat Recovery Steam Generator superheater module (3 modules) tube replacement due to thermal stress of cycling duty and failure of support brackets. In 2009 plant staff performed a thermal and mechanical study with Vogt Power International and determined that operation of the gas turbine at part load conditions have caused additional stresses on the superheater module section of the Heat Recovery Steam Generator.

Upon further discussions with Vogt Power International, the Original Equipment Manufacturer (OEM), we have been notified that there is a more stringent American Society of Mechanical Engineers (ASME) code Section I and B 31.1 that the Heat Recovery Steam Generator tubes must comply with. To follow proper ASME code regulations and guidelines we performed two independent thermal and mechanical studies. The operating pressure of this unit is 850 PSI and the operating temperature is 900 deg F. The high temperatures and pressures that are involved in the Unit 5 Heat Recovery Steam Generator require a recommendation be supplied by a qualified vendor based on a thorough evaluation. Staff recommended two vendors for that evaluation.

We contracted two independent studies in order to be diligent in the evaluation of the Unit 5 superheater modules. The Original Equipment Manufacturer (OEM) Vogt Power International performed a study and HRST performed a study. As a result of both studies a recommendation for superheater module replacement was made.

Staff prepared a request for proposals (RFP) document based on the evaluations of Vogt and HRST with the assistance of the purchasing department and went out for a competitive bid. Staff has reviewed the bid documents submitted and recommend the project be awarded to the Original Equipment Manufacturer (OEM) Vogt Power International for the design, removal, and installation of superheater modules required to meet compliance with American Society of Mechanical Engineers (ASME) code Section I and B 31. The quoted cost for the project referenced in the bid documents submitted is \$1,281,540.00. A copy summarizing the evaluation matrix used in the selection is attached as reference.

Work will be performed during the February scheduled outage of the Vero Beach Combined Cycle unit. Approval is required now due to the lead time needed to manufacture the modules for our unit. We have differed this project every year since 2003.

Funding for this project will come from capital budget item FY 2010 Account # 403.5000.531.697312.

Please advise if there are any questions concerning this matter.

**CITY OF VERO BEACH
 POWER RESOURCES
 HRSG RETROFIT
 BID #170-10/PJW
 OPENED 04/09/10**

ITEM	VOGT POWER	BREMCO, INC.
LUMP SUM	1,131,540.00*	1,114,155.00
STEAM BLOW (COST PLUS)	150,000.00 (Cost + 15%)	198,593.00
ESTIMATED TOTAL COST	1,281,540.00	1,312,748.00
	*Includes base scope & requested options	
		<i>Purchasing Division</i>

HRSG Superheater Bundle Matrix Totals

Results of Bid Analysis

Company Name	Reviewer 1	Reviewer 2	Reviewer 3	Reviewer 4	Totals
Bremco, Inc.	14	16	14	14	58
Vogt Power International	13	17	18	14	62



April 6, 2010

City of Vero Beach
3455 Airport West Drive
Vero Beach, FL 32960

Attention: Manager of Purchasing

Reference: Heat Recovery Steam Generator Superheater Retrofit 170-10/PJW
Vogt Power International Inc. Proposal No. V69054, Rev. 1

Dear Manager of Purchasing:

Vogt Power International Inc. (VPI) greatly appreciates your invitation to provide this proposal to the City of Vero Beach for design, material supply, fabrication, delivery, and installation of high pressure superheater (HPSH) components for one (1) HRSG originally supplied to the Vero Beach Municipal Power Plant under Henry Vogt Machine Company job number 17328.

In response to your request for quotation, we are pleased to enclose for your information and review two copies of our proposal number V69054, Revision 1, dated April 6, 2010. Every concerted effort has been made to satisfy your requirements and provide you with a timely and cost effective product.

Please keep in mind that our company has been in operation for over 125 years with experience ranging from coal fired boilers to the largest HRSGs of our time. We have sold over 650 HRSGs and are ISO 9001:2008 certified. Our service and reputation are unmistakable.

The City of Vero Beach is a very important customer to VPI, and we would welcome the opportunity to discuss our proposal with you in more detail.

Once again, we would like to take this opportunity to thank you for your interest in our company. We trust that if you have any questions concerning our proposal, you will not hesitate to contact us.

Respectfully,

A handwritten signature in cursive script that reads "Amy Goss".

Amy Goss
Product Manager of HRSG Retrofits
Vogt Power Aftermarket Products & Services
Email: AGoss@VogtPower.com
Phone: 502-899-4652
Fax: 502-891-1960

A Babcock Power Inc Company

Vogt Power International Inc
4000 Dupont Circle
Louisville, Kentucky 40207 USA

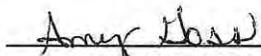
Telephone: 502-899-4500
Fax: 502-891-1960
www.vogtpower.com

DRUG-FREE WORKPLACE COMPLIANCE FORM

IDENTICAL TIE BIDS

Preference shall be given to business with drug-free workplace programs. Whenever two or more Bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or Contractual services, a Bid received from a business that certifies that it has implemented a drug-free Work place program shall be given preference in the award process. Established procedures for processing tie Bids will be followed if none of the tied vendors has a drug-free Workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or Contractual services that are under Bid a copy of the statement specified in Subsection 1.
4. In the statement specified in Subsection 1, notify the employees that, as a condition of working on the commodities or Contractual services that are under Bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employer's community by, any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through the implementation of this section. As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.



VENDOR'S SIGNATURE

BID PROPOSAL
RFP NO:170-10/PJW
HEAT RECOVERY STEAM GENERATOR SUPERHEATER RETROFIT

To: The City Manager
City of Vero Beach
P.O. Box 1389
Vero Beach, Florida 32961

The Undersigned Proposer has carefully examined the Contract Documents and visually examined any and all Work Sites. The undersigned is familiar with the nature and extent of the Work and any local conditions that may in any manner affect the Work to be done, and the equipment, materials and labor required, but excluding conditions not reflected in information provided by the City, and further subject to express clauses contained elsewhere in the Contract Documents.

The undersigned agrees to do all the Work in accordance with the Contract Documents and according to the standards of quality and performance established by the City, for the unit prices as provided in the attached Bid Schedule, for each of the items or combination of items stipulated. It is understood that certain quantities shown in the Bid Schedule are approximate only, subject to increases and decreases, and for the purpose of Proposal comparisons for determination of low Proposer. It is further understood that payment will be in accordance with actual quantities placed in the construction as more specifically provided in the Contract Documents. The undersigned further agrees as follows:

1. To do any Work, not covered by the Bid Schedule, which may be ordered by the City in accordance with provisions contained in the Contract Documents upon authorization by the City Council, and to accept as full compensation therefore such prices as may be agreed upon, in writing, by the City and the Contractor in accordance with Article 15, of the General Conditions.
2. To begin and complete Work as required in the Notice to Proceed, provided such Notice to Proceed does not conflict with the agreed Contract Documents.
3. To allow the City of Vero Beach to reduce invoices per fines in the amount and under the conditions specified in the Contract Documents.
4. To keep in force all insurance and bonding requirements as set forth in the Contract Documents for the duration of the Contract and to give thirty (30) days notice of expiration of insurance and/or bonding.

Dated this 6th day of April, 2010.

Respectfully submitted

Proposer Vogt Power International Inc. Amy Boss
Address: 4000 Dupont Circle
Louisville, KY 40207
City, State and Zip Code

QUESTIONNAIRE

The undersigned guarantees the truth and accuracy of all statements and answers herein contained.

1. How many years has your organization been in business as a supplier of these materials/services?

Vogt Power International Inc. (VPI) was incorporated under the laws of the state of Delaware on December 13, 2002. Prior to that an affiliated company, Vogt-NEM, Inc., supplied HRSGs since 1996. Vogt-NEM, Inc. bought the assets of the Henry Vogt Machine Company, which was one of the original companies in the HRSG business beginning in the early 1960s.

2. What is the last project of this nature that you have completed?

Supply of design, materials, and fabrication of components required for HRSG modifications to meet desired thermal and emissions performance based on operation with a new gas turbine. This included addition of, replacement of, and/or modifications to the inlet transition duct, distribution grid, duct burner system, heat transfer surface, CO system, SCR system, partial economizer bypass system, platforms, expansion joints, and casing seals.

3. Have you ever failed to complete Work awarded to you; if so, where and why?

No.

4. Name three (3) individuals or corporations for which you have performed Work of this size and nature to which you refer:

Montgomery Power Partners (Jeff Maida) Phone (713) 560-6640

Calpine Corporation (Gene Fahey) Phone (831) 385-7942

Dupont-Sabine River Works (Ed Gormley) Phone (409) 886-6775

5. Have you personally inspected the proposed Work and have you a complete plan for its performance?

VPI's Construction Manager has been to the jobsite for the construction walkdown. In addition, we will have an Engineering site visit during order execution for the purpose of gathering information and/or checking preliminary designs (e.g., for consideration of pipe routing, etc.).

6. Will you sublet any part of this Work? If so, give details:

VPI will use fabricators and vendors for supply of components. VPI presumes that such suppliers fall outside the restrictions of the subletting requirements within the Customer's Instructions to Proposers and General Conditions. VPI will however subcontract the installation services and the steam blow-related activities.

7. What equipment do you own that is available for the Work?

Computers and other office equipment

8. What equipment will you purchase for the proposed Work?

None

9. What equipment will you rent for the proposed Work?

None, however our subcontractors may rent equipment, such as cranes, for performance of the work.

10. Minority Business Statement:

Is your firm a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985? No.

11. State the true, exact, correct, and complete name of the partnership, corporation, limited liability company, or trade name under which you do business, and the address of the place of business. (If a partnership, state the name of all partners. If a corporation, state the name of the President and Secretary. If a Limited Liability Company, state the names of all members. If a trade name, state the names of the individuals who do business under the trade name.)

Vogt Power International Inc.

(Correct Name of Proposer)

a. The business is a Sole Proprietorship, Partnership, Corporation, or Limited Liability Company.

Corporation

b. The address and phone number of principal place of business is

4000 Dupont Circle Louisville, KY 40207

c. The names of the partners, corporate officers, members, or individuals doing business under a trade name, are as follows:

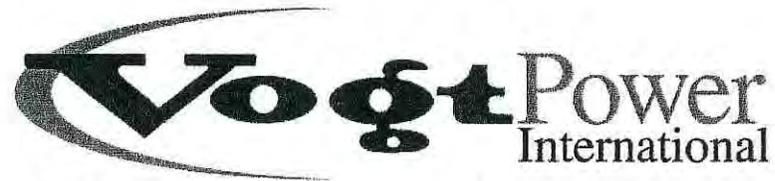
President – Stephen Kapsalis

Secretary – William Ferguson

Amy Shaw

(Proposer)

Aftermarket Technical and Commercial Proposal



A Babcock Power Inc. Company

**Vogt Power International Inc.
4000 Dupont Circle
Louisville, Kentucky 40207 USA**

Vogt Power International Inc. proposes to furnish to:

**Vero Beach Municipal Power Plant
Vero Beach, FL**

For the Project:

**HPSH Retrofit
Proposal Ref. Number: V69054, Rev.1**

the equipment and services as described in the following pages.

Customer: Vero Beach Municipal Power Plant
Plant ID: 17328
VPI Ref. No.: V69054, Rev.1
Project: HPSH Retrofit
Date: April 6, 2010
Validity Date: June 8, 2010

1	INTRODUCTION	1-2
1.1	HRSG WALKDOWN	1-2
1.2	QUALITY	1-2
1.3	PROJECT SCHEDULE.....	1-2
2	SCOPE OF SUPPLY	2-1
2.1	SCOPE TABLE.....	2-1
2.2	OTHER CUSTOMER-SUPPLIED ITEMS	2-4
2.3	TERMINAL POINTS	2-5
3	MAJOR COMPONENT DESCRIPTION	3-1
3.1	PRESSURE PARTS	3-1
3.2	NON-PRESSURE PARTS	3-1
3.3	FABRICATION.....	3-1
4	DEMOLITION AND ERECTION	4-1
4.1	GENERAL	4-1
4.2	DEMOLITION AND DISMANTLING	4-1
4.3	REINSTALLATION OF EQUIPMENT, TESTING, AND STEAM BLOW.....	4-2
4.4	COMPLETION.....	4-2
4.5	HAZARDOUS MATERIALS	4-3
4.6	CLARIFICATIONS.....	4-3
5	COMMERCIAL.....	5-1
5.1	PRICING.....	5-1
5.2	PROGRESS MILESTONE PAYMENT SCHEDULE	5-1
5.3	LIQUIDATED DAMAGES	5-2
5.4	DELAYS AND PROJECT STANDBY CHARGES.....	5-2
5.5	TERMS AND CONDITIONS.....	5-2
6	EXPERIENCE LIST	6-1
7	APPENDICES	7-1
7.1	APPENDIX-1 EXCEPTIONS & CLARIFICATIONS TO CUSTOMER RFP/SPECIFICATION ..	7-1
7.2	APPENDIX-2 PRELIMINARY PROJECT SCHEDULE.....	7-2

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 1-1
Date: April 6, 2010

1 INTRODUCTION

Vogt Power International Inc. greatly appreciates your invitation to provide this proposal for design, material supply, fabrication, delivery, and installation of high pressure superheater (HPSH) components for one (1) HRSG originally supplied to the Vero Beach Municipal Power Plant under Henry Vogt Machine Company job number 17328.

For the purposes of this Proposal, "Customer" is defined as meaning Vero Beach Municipal Power Plant, and "VPI" is Vogt Power International Inc.

The components being proposed were identified in the Thermal Study report prepared for the Customer by VPI in April of 2009 under VPI project number V25306. VPI cannot account for HRSG issues or design features which are not known or have not been expressly provided, and our proposal pricing and schedule do not account for any matters or parameters that have not already been identified or been made known to us. In the event that VPI discovers (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract; or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this Contract, VPI will give prompt notice of such condition and an equitable adjustment to the Contract will be made.

In addition, the Customer provided specification documents to VPI on March 10, March 18, March 23, and April 1, 2010. VPI's exceptions and clarifications to the specification documents are provided in Appendix 1. Included therein are the required signed copies of the Addenda documents.

1.1 HRSG Walkdown

VPI shall visit the jobsite within 3-6 weeks after receipt of the purchase order, on a date to be agreed upon by VPI and the Customer, for an external walkdown in order to gather information and/or check preliminary designs (e.g., for consideration of pipe routing).

1.2 Quality

VPI is an ISO 9001:2008 certified company for the design, production, supply & installation of components in the field of energy technology.

1.3 Project Schedule

A Preliminary Project Schedule is located in Appendix 2.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 1-2
Date: April 6, 2010

2 SCOPE OF SUPPLY

2.1 Scope Table

VPI will supply the following services and equipment for one (1) HRSG at the Customer's facility:

Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
I.	Heat Transfer Components, Casing, and Structural Steel					
1.	Three (3) HPSH module harps	X				
2.	All other heat transfer modules			X		
3.	HPSH bare tube and sidewall baffles	X				
4.	All other heating surface baffling			X		
5.	Casing, insulation, and liner material, as required to close the HRSG access window created during installation	X				
6.	Remainder of HRSG casing for heat transfer surface			X		
7.	Bellows seals, as required for HPSH inlet, outlet, drain, and interconnecting piping casing penetrations	X				
8.	Structural supports for the VPI-supplied components	X				
9.	Other structural steel			X		
10.	Prime painting of VPI-supplied casing external surfaces required to close the HRSG access window created during installation	X				
11.	Prime painting of VPI-supplied external structural supports	X				
12.	Foundation design					X
II.	HRSG Piping					
1.	Inlet piping to connect the new HPSH3 module to the existing HP drum nozzles	X				
2.	Crossovers to connect the new HPSH3 module to the new HPSH2 module	X				
3.	Piping to connect the new HPSH2 module to the attemperator inlet header	X				

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 2-1
Date: April 6, 2010

Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
4.	Piping as required to modify the attemperator inlet header and attemperator loop to accommodate the new HPSH arrangement (quantity to be determined by VPI)	X				
5.	Remaining attemperator piping			X		
6.	Piping to connect the attemperator outlet header to the new HPSH1 module	X				
7.	Outlet piping to connect the new HPSH1 module to the existing HP steam outlet header	X				
8.	Remaining HP system outlet piping			X		
9.	Vent piping to connect the new HPSH components with the existing HPSH vent piping	X				
10.	Drain piping to connect the new HPSH and attemperator components with the existing HPSH drain piping	X				
11.	Redesign of HPSH drain piping				Option 1	
12.	Remaining HRSG piping			X		
13.	Pipe supports, as required for the VPI-supplied piping	X				
14.	Insulation and lagging, as applicable, for external piping and valves	X				
III. Valves						
1.	Manual HPSH module drain valves	X				
2.	Actuated HPSH module drain valves in lieu of manual HPSH module drain valves				Option 1	
3.	Actuated attemperator drain valves	X				
4.	Other valves, including attemperator			X		
IV. Instrumentation & Controls						
1.	Attemperator drain thermowell	X				
2.	Attemperator drain thermocouple	X				
3.	All other instrumentation & controls			X		

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
V.	Platforms & Ladders					
1.	Ladder & platform for access to VPI-supplied attemperator drain valves, thermowell, and thermocouple				Option 2	
2.	Other platforms & ladders			X		
VI.	Construction & Field Services					
3.	Building/construction permits, if required		X			
4.	Removal & reinstallation of building and/or roof materials, electrical components, heat tracing, instrumentation & tubing, and control elements, as required for VPI's subcontractor(s) to gain adequate access to the HRSG		X			
5.	Removal & reinstallation of external piping insulation and lagging, as required for VPI's subcontractor(s) to gain adequate access to the HRSG	X				
6.	Mechanical construction/erection services for demolition and installation of HRSG components, as described herein	X				
7.	Hole watch, as needed	X				
8.	Oxygen sniffing equipment and readings, as needed	X				
9.	Foundation and civil work					X
10.	Commissioning & startup		X			
11.	Shop hydrostatic test	X				
12.	Site hydrostatic/"in-service pressure" test, as applicable	X				
13.	Steam blow-related activities	X (T&M)				
14.	Operation of the gas turbine for the steam blow(s)		X			
15.	Touch-up and finish painting	X				
16.	General cleaning of the internal and external areas used by VPI	X				
VII.	Site Materials, Services & Work					
1.	Electrical power for welders and other equipment		X			

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 2-3
Date: April 6, 2010

Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
2.	Welding machines	X				
3.	Supply and disposal of demineralized water for site hydrostatic/"in-service" pressure test (per ABMA standards)		X			
4.	Pumps and piping for site hydrostatic/"in-service" pressure test		X			
5.	Construction and tool trailer(s)	X				
6.	Trailer setup area		X			
7.	Office space for VPI project and construction management while onsite		X			
8.	Laydown/storage areas		X			
9.	Disposal dumpsters for use by installation personnel		X			
10.	Offsite disposal of removed components & construction debris		X			
11.	Hookups for contractors' trailer(s)		X			
12.	Telephone lines to contractors' trailer(s)		X			
13.	Portable sanitary facilities	X				
14.	Potable water		X			
15.	Drainage		X			
16.	Compressed air for contractors' use		X			
17.	Parking		X			
18.	Security		X			
VIII.	Other					
1.	Applicable Code documentation for VPI-supplied components	X				

2.2 Other Customer-Supplied Items

- All utilities required during installation and commissioning.
- All necessary control, field instruments, etc. required to complete the system not supplied by VPI.
- All electrical wiring, conduit, cable trays, etc. required to tie in the system.
- All piping required to complete the installation outside the scope specified herein.
- Plant and equipment lighting.
- Other items required to make the HRSG operational but not included in VPI's scope specified herein.
- Plant safety orientation.
- Lock-out and tag-out of equipment.
- Plant security and work permits.
- Any required notifications to Customer's insurance carrier regarding changes to the HRSG.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 2-4
Date: April 6, 2010

2.3 Terminal Points

VPI's terminal points are as indicated below, however VPI reserves the right to re-use existing material within those terminal points (e.g., piping, valves, etc.) in its design.

2.3.1 Casing

Within one (1) foot of the HRSG casing modified to gain top access to the module harps or to penetrate the bottom casing for the drain line.

2.3.2 Pressure Parts

- At the weld connecting the piping to the HP drum saturated steam nozzle outlet.
- Upstream of the first bend in the HPSH outlet piping downstream of the heating surface.
- At the weld connecting the vent connections for the VPI-supplied HPSH piping components to the existing vent system.
- At the weld connecting the outlet of the second drain valve to the existing drain system.
- At the location of the existing connection of the attemperator spray water piping to the attemperator.

2.3.3 Baffles

At the point of contact with the components to which the baffles are attached.

2.3.4 Pipe Supports

The mounting surfaces of the new pipe supports.

2.3.5 Structural Steel

The mounting points of the new steel to the existing HRSG structural members.

2.3.6 Electrical/Pneumatic

All VPI-supplied controls, instrumentation, and power connections will be provided with tubing and wiring connections only. All interconnecting wiring and tubing is by the Customer.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 2-5
Date: April 6, 2010

3 MAJOR COMPONENT DESCRIPTION

This section is included to briefly describe the equipment and the components supplied. It is not intended to replace the scope of supply section of this proposal.

Equipment quoted is based on preliminary design. VPI reserves the right to change the design of the equipment if it is determined to constitute an improvement over former practice.

3.1 Pressure Parts

3.1.1 Heating Surface

All VPI-supplied heating surfaces will be constructed of module "harps", each consisting of two rows of finned tubes welded to top and bottom headers. The harps are designed for single pass flow on the gas side and single or multi-pass flow on the waterside. The module harps will be equipped with low point drains for a "fully drainable" design.

3.1.2 Interconnecting Piping

The HPSH piping will be selected based on steam design pressure and temperature. VPI-supplied piping will be provided with the required supports.

An option is also being provided herein for redesign of the HPSH module drain piping, which will include enlarging of the drain lines and supply of actuated drain valves in lieu of manual drain valves.

3.2 Non-Pressure Parts

3.2.1 Ductwork and Casing

VPI will design and furnish casing components to repair the HRSG casing removed for access to the module harps being replaced. The casing is fabricated from carbon steel plate. The replacement casing panel(s) will be pre-insulated and prefabricated to the maximum extent possible.

Internal insulation will be designed to provide an acceptable average casing surface temperature per OSHA requirements. Select, small, localized areas can be expected to exceed the design skin temperature requirement. These areas would include casing test or instrumentation connections, support attachment points for flow distribution devices, and similar areas. The VPI design will minimize on a practical basis the skin temperature excursion.

3.3 Fabrication

3.3.1 Codes and Standards

The equipment supplied will be designed, manufactured, tested, and will be in accordance with the approved applicable addendum of the following codes and standards or their international equivalent:

- ASME Boiler and Pressure Vessel Code, Section I, VIII, IX, "Power Boilers"

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 3-1
Date: April 6, 2010

- American National Standards Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- Environmental Protection Agency (EPA)
- Institute of Electrical and Electronic Engineers (IEEE)
- American Iron and Steel Institute (AISI)
- National Electrical Manufacturers Association (NEMA)
- National Fire Protection Association (NFPA)
- Occupational Safety & Health Act (OSHA)
- Scientific Apparatus Manufacturers Association (SAMA)
- Instrument Society of America (ISA)
- Boiler Water Requirements and Associated Steam Purity for Commercial Boilers, American Boiler Manufacturers Association (ABMA)
- HRSG Performance Testing (ANSI/ASME PTC 4.4)
- Steel Structures Painting Council (SSPC)
- National Electric Code (NEC)
- American Welding Society (AWS)
- American Institute of Steel Construction (AISC)
- American Society of Civil Engineers (ASCE)
- American Petroleum Institute (API)

3.3.2 World-wide Sourcing of Components and Labor

The basis for this proposal is for all the design, materials, and labor associated with this contract to be procured from any place in the world. VPI has extensive experience with pressure part and steelwork fabrication in different parts of the world and has a long list of proven suppliers. Workshops issued with an order for the fabrication of pressure parts are audited before these orders are issued and must adhere to rigorous quality plans and standards.

3.3.3 Inspection and Shop Certificates

The Customer has the right to inspect the HRSG components during fabrication to ensure that all materials are in accordance with the contract and to assure that proper fabrication procedures are used.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 3-2
Date: April 6, 2010

4 DEMOLITION AND ERECTION

4.1 General

VPI's erection subcontractor(s) will mobilize approximately one week prior to the start of the outage. The outside construction and tool trailers will be set up, construction equipment and machinery will be brought in and set up, construction materials will be received and, if possible, most worker safety training will be carried out prior to the shutdown.

VPI subcontractor(s) will perform demolition, installation, and cleanup services as described herein. These services will be provided by qualified subcontractor(s). The following is a list of the subcontractors that VPI would potentially utilize during execution of the proposed project. VPI's pricing and schedule are predicated on use of any of the subcontractors listed therein. In the absence of express written notification of subcontractor disapproval from the Customer prior to Contract award, VPI shall be entitled to an equitable adjustment to the Contract Price and time of performance for any resulting impact arising from or relating to any disapproval.

- TEi Construction Services
- Titan Contracting and Leasing Company
- Enerfab
- Bluewater Energy Solutions
- Arthur T. Astle & Associates, Inc. (ATA&A)

Depending on the final choice of erection subcontractor(s), VPI will work 6 to 7 days per week during the outage, 1 shift per day at 10 hours per shift. A VPI technical site representative will generally be onsite or readily available during most all of these working hours. Holidays during the outage will not be worked. Specific holidays will be defined after selection of the erection subcontractor(s).

4.2 Demolition and Dismantling

The Customer will remove sections of the roof and/or building (including electrical, lighting, etc.) to provide adequate access to all working areas. In addition, the Customer will remove HRSG instrumentation & tubing, heat tracing, control elements, and electrical connections, as needed for removal and re-installation of VPI-supplied components.

VPI's subcontractor(s) will perform the following:

- Remove any additional exterior obstructions on the HRSG (e.g., structurals, platforms, ladders, piping insulation and lagging, external piping, etc.), as required to gain adequate access to the HRSG.
- Remove casing, internal insulation and expanded metal to gain access to the HPSH module harps.
- Detach the connections for the inlet, outlet, interconnecting, vent, and drain piping.
- Remove the baffles, bumpers, or any other internal obstructions between the existing HPSH module harps and the accessway created above.
- Remove the existing HPSH module harps.

All components permanently removed by VPI will be discarded in dumpsters provided by the Customer.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 4-1
Date: April 6, 2010

4.3 Reinstallation of Equipment, Testing, and Steam Blow

VPI's subcontractor(s) will perform the following:

- Install the new HPSH module harps.
- Reinstall bumpers, baffles, supports, and any other internal obstructions that were previously removed.
- Install crossover connections, superheater inlet and outlet connections, attemperator loop piping, vents, and drain lines. Bellows seals will be installed on the HPSH piping casing penetrations.
- Install pre-insulated/prefabricated casing panel(s) to close the HRSG access window that was created to gain access to the modules.
- Install any new structural supports and reinstall all previously-removed structurals, platforms, ladders, and external piping.
- Perform any hydrostatic/"in-service" pressure testing required by the Authorized Inspector.
- Install insulation and lagging on external piping, as applicable.
- Apply touch-up and finish paint.

After mechanical installation, VPI's subcontractor(s) will perform a steam blow. The steam blow scope of work (which will be performed on a time and material basis) includes but may not be limited to the following:

- Design of temporary blow equipment (will be performed offsite prior to outage)
- Field labor personnel to install & remove temporary blow equipment
- VPI technical advisor during steam blow-related work
- VPI steam blow subcontractor technical field service advisor
- Temporary large bore exit piping
- New tie-in piping
- Valves
- Flanged fittings
- Standard target inserter
- Brass targets
- Quench assemblies
- Exhausters
- Consumables

The Customer will be responsible for re-installation of HRSG instrumentation & tubing, heat tracing, control elements, electrical connections, and roof/building materials.

4.4 Completion

To ensure timely completion, a punchlist must jointly be generated prior to the completion of the installation. Input to this punchlist will be by the Customer, VPI and the erection subcontractor(s). VPI requires Customer's complete cooperation in the timely reviewing of all items pertaining to the completion of the unit.

Upon completion of the unit, the worksite shall be cleaned and returned as close as reasonably possible to its former condition. Some touch-up painting, insulation work, and removal of temporary steam blow equipment not affecting operational turnover, may be completed after turnover/startup of the unit.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA
Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 4-2
Date: April 6, 2010

4.5 Hazardous Materials

It shall be the responsibility of Customer to provide VPI and its subcontractor(s) with written documentation that the work performed will not expose personnel to levels at or above the action levels established by OSHA if any hazardous substances may be present. If VPI encounters, at the project site, toxic substances, hazardous waste (as such terms may be defined in any Federal, State or local statute or ordinance or regulations issued thereunder), which require special handling and/or disposal, the Customer shall immediately take whatever precautions are required to legally eliminate such hazardous conditions and properly handle and dispose of such substances or wastes so that the work under the contract may safely proceed. If any such toxic substances, hazardous substances, or hazardous wastes cause an increase in VPI's cost of, or the time required for, performance of any part of the work under this contract, an equitable adjustment shall be made in the price and the schedule. The Customer agrees to properly dispose of all hazardous waste produced or generated in the course of VPI's work at the project site. The plant owner shall indemnify VPI for any and all claims, without limitation to attorneys and consultant fees and expenses, arising out of or relating to the presence of any such toxic or hazardous substances or hazardous wastes which are: (i) present on the site prior to the commencement of VPI's work or (ii) improperly handled or disposed of by the Customer, or (iii) brought to the site or produced thereon by parties other than VPI or its subcontractor(s).

If insulation/refractory removal or restoration is within or added to VPI's scope of work, the Customer will provide VPI with written authorization of removal and attest that the insulation or refractory is free of asbestos and/or any hazardous material as defined by State or Federal law and OSHA prior to work commencement.

4.6 Clarifications

- The site immediately adjacent to the HRSG and building must be available for the sole use of VPI and its erection subcontractor(s), and of sufficient space for effective use of cranes and/or manlifts for the duration of work on each unit.
- The laydown areas shall be well drained.
- Roadways in and around the work area and laydown yard will be adequate for travel by cranes and trailers and shall be maintained free of dust, mud and/or snow by the Customer.
- All materials and services supplied by the Customer will be on site and available as needed by VPI to complete the defined work without delays.
- VPI's proposed pricing and schedule are based on the following assumptions. If changes to any of the assumed conditions causes an increase in VPI's cost of, or the time required for, performance of any part of the work under this contract, an equitable adjustment shall be made to the price and/or schedule.
 - Safety requirements are per OSHA standards.
 - VPI will be given free access to the work area and will not be delayed by the Customer or by other contractors/suppliers that may be working on the project site.
 - Owner will provide cutting and welding permits, if required, in a timely manner. (VPI defines a timely manner as one half hour after requesting the permit.)
 - There will be no restrictions on using cutting torches and/or arc gougers in and around the work area.
 - The project site does not contain any environmentally sensitive areas or items of a similar nature.
 - Any information furnished by the Customer regarding site conditions is accurate and complete.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 4-3
Date: April 6, 2010

5 COMMERCIAL

5.1 Pricing

VPI's price for the scope of supply as described herein for one (1) unit is:

Description	Price (US Dollars)
Base Scope: Design, material supply, fabrication, delivery, and installation of high pressure superheater components. Note that the price shown reflects the agreed discount of \$28,330 (i.e., the price paid by the Customer for VPI Thermal Study number V25306).	\$1,073,970 + Steam blow-related activities at VPI's cost +15%
Optional Adder #1 to Base Scope: Adder for design, material supply, fabrication, delivery, and installation of redesigned high pressure superheater drains, including motor-operated drain valves.	+ \$20,220
Optional Adder #2 to Base Scope: Adder for design, material supply, fabrication, delivery, and installation of ladder and platform for access to VPI-supplied attemperator drain valves, thermocouple, and thermowell.	+ \$37,350

- VPI's price is based solely on our proposal and identified scope.
- VPI's pricing as stated does not include any performance or payment bonds.
- The duration of the steam blow process can vary greatly. It is for this reason that VPI will provide steam blow-related activities on a time and material basis. VPI's estimate of the price to the Customer for the steam blow work is \$150,000. This is an estimate only. The assumed duration for the site steam blow-related activities is 14 days, which is based on the following assumed schedule of work:
 - 4 days for installation and set up of temporary steam blow components and equipment. (Some of this work will be completed in parallel with the HPSH mechanical installation work.)
 - 6 days for performance of the steam blow(s).
 - 4 days for removal of the temporary steam blow components and equipment.
- Bid validity: Pricing for this proposal is based on a complete and undivided purchase order release to VPI with finalized Terms & Conditions that have been mutually negotiated between VPI and the Customer on or before June 8, 2010.
- VPI retains the right to withdraw this proposal at any time before formal contract acceptance.
- Shipping shall be FOB jobsite.

5.2 Progress Milestone Payment Schedule

No.	Payment Milestones	%	Est. Date
1.	Upon receipt of Order or Notice to Proceed, whichever occurs first.	10%	06/08/10
2.	Upon VPI placement of order for harp fabrication.	10%	08/10/10
3.	Upon delivery of bare tubes to the fabrication shop.	20%	11/02/10
4.	Upon shipment of harps (or being ready to ship if Customer delays project).	25%	01/31/11
5.	Upon completion of mechanical installation work by VPI (not including steam blow-related activities).	35%	02/27/11
6.	VPI will submit invoice(s) to the Customer for the steam blow-related scope of work upon VPI's receipt of charges for the work.		

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 5-1
Date: April 6, 2010

5.2.1 Conditions for Payment Terms

1. Dates given in the progress payment schedule are estimated dates only. Actual invoices will be sent with reasonable proof of completion of each milestone.
2. Payment terms shall be net thirty (30) days from date of invoice. All amounts not paid within stated terms are subject to a finance charge of 1.5% per month or 18% per annum.
3. Payment terms are based upon current schedule of deliverables. Should schedule change, VPI reserves the right to review applicable terms.

5.3 Liquidated Damages

If mechanical installation work prior to the start of steam blow-related activities is not completed within 28 consecutive calendar days after VPI's subcontractor commences site work, provided that VPI's subcontractor is permitted unrestricted access during such period and that such delay is not otherwise excused by the terms of the Contract, VPI shall pay to the Customer as liquidated damages and not as a penalty \$8,000 per day of late completion as the sole and exclusive liability for such failure to achieve the work completion date. Some touch-up painting, insulation work and other work of a punch list nature, not affecting operational turnover, may be completed later and would not give rise to liability for liquidated damages for late completion, or any other damages. Notwithstanding the foregoing, liquidated damages shall be assessed against VPI only if VPI's unexcused delay is the sole cause of delay in the completion of the Customer's outage, and in the event that there is no concurrent delay in any other aspect of the outage that will be taking place. In any event, VPI's maximum liability for liquidated damages for work completion for which liquidated damages are payable shall not exceed 10% of the Contract price.

5.4 Delays and Project Standby Charges

The proposal pricing reflects delivery and installation of equipment by March 21, 2011. Customer requests for delays of shipment and/or postponement of installation beyond this date may result in extra charges for storage, handling, project management, etc.

5.5 Terms and Conditions

VPI's exceptions and clarification (i.e., variances) to the Customer-supplied Terms and Conditions are provided within Appendix 1.

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 5-2
Date: April 6, 2010

6 EXPERIENCE LIST

VPI is an Original Equipment Manufacturer of horizontal type HRSGs and has many repowering projects on vertical type HRSGs. VPI has hundreds of HRSGs in service. VPI also provides turnkey services for repair and retrofit of HRSGs. Below is a reference list of Aftermarket projects that VPI has recently conducted on HRSGs.

1998-2008 VPI Aftermarket Experience (Abbreviated)

Client	Location	Boiler Manufacturer	Scope
Arizona Public Service	Phoenix, AZ	GE	<ul style="list-style-type: none"> • Turnkey retrofit of a vertical HRSG • Site supervision & project management
Bechtel	South America	Vogt	<ul style="list-style-type: none"> • Replacement economizer
Beaver Station-PGE	Portland, OR	GE	<ul style="list-style-type: none"> • Turnkey retrofit of six (6) vertical HRSGs
BP Amoco	Alvin, TX	Vogt	<ul style="list-style-type: none"> • Replacement of superheater & economizer
Calpine – Androscoggin Energy	Jay, ME	Nooter Eriksen	<ul style="list-style-type: none"> • Turnkey redesign/replacement of three (3) economizer headers • Site supervision & project management
Calpine – Greenleaf II	Yuba City, CA	Deltak	<ul style="list-style-type: none"> • Turnkey retrofit & installation of water preheater and LP EVAP modules
Calpine – Tiverton	Tiverton, RI	Nooter Eriksen	<ul style="list-style-type: none"> • Turnkey retrofit of three (3) reheat attemperator piping systems • Site supervision & project management
CIPCO	Creston, Iowa	Vogt	<ul style="list-style-type: none"> • Replacement of superheater & economizer • Project management
ConocoPhillips	Rodeo, CA	Vogt	<ul style="list-style-type: none"> • SCR retrofits (3 units) • Site supervision
Dominion Generation – Chesterfield	Chester, VA	Vogt	<ul style="list-style-type: none"> • Turnkey re-insulation of inlet duct, basement section, and attic sections • Turnkey reinforcement of bottom base beam • Site supervision & project management
Dow Chemical Company	Texas City, TX	Vogt	<ul style="list-style-type: none"> • Turnkey retrofit & installation of nine (9) economizer modules • Site supervision & project management
Dow Chemical Company	Freeport, TX	Vogt	<ul style="list-style-type: none"> • Supply of SCR system components and required HRSG modifications to incorporate the SCR system
Dow Chemical Company	Freeport, TX	Vogt	<ul style="list-style-type: none"> • HRSG modifications to accommodate the addition of a Gas Turbine DLN system
El Paso Natural Gas	Farmington, NM	Vogt	<ul style="list-style-type: none"> • Turnkey retrofit of economizer • Site supervision & project management
General Electric Company	Dabhol, India	Vogt	<ul style="list-style-type: none"> • Replacement of expansion bellows • Site supervision & project management

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal

Customer: Vero Beach Municipal Power Plant

Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1

Page No.: 6-1

Date: April 6, 2010

Client	Location	Boiler Manufacturer	Scope
Motiva Enterprises	Port Arthur, TX	Vogt	<ul style="list-style-type: none"> • Turnkey SCR retrofit • Site supervision
Praxair	Texas City, TX	Deltak	<ul style="list-style-type: none"> • Turnkey retrofit & installation of six (6) economizer modules • Site supervision & project management
Proctor & Gamble - Oxnard	Oxnard, CA	Vogt	<ul style="list-style-type: none"> • Turnkey retrofit of one (1) HRSG for CO catalyst system addition • Turnkey upgrade of the existing SCR system.
Reedy Creek Utilities	Orlando, FL	Vogt	<ul style="list-style-type: none"> • Addition of CO Catalyst System • Project management • Site technical advisor
Reliant Energy	Houston, TX	GE	<ul style="list-style-type: none"> • Economizer retrofit on eight (8) vertical HRSGs • Project management
SIGEN S.A.	Santiago, Chile	Vogt	<ul style="list-style-type: none"> • Emergency retrofit of module support system
Texas Petrochemicals Corp.	Houston, TX	ATS	<ul style="list-style-type: none"> • Turnkey retrofit • Redesign of HRSG • Replacement/Addition of heating surface • Site supervision & project management
Texas Petrochemicals Corp.	Houston, TX	Vogt	<ul style="list-style-type: none"> • Turnkey replacement economizer • Site supervision & project management
Turlock Irrigation District – Almond Power	Turlock, CA	Deltak	<ul style="list-style-type: none"> • Computer Flow Modeling Study (i.e., CFD) • Turnkey installation of inlet duct distribution grid to improve the flow distribution on the existing SCR catalyst blocks.
TransCanada – Ocean State Power	Harrisville, RI	Vogt	<ul style="list-style-type: none"> • Redesign of HPEV piping • Site supervision & project management
University of Texas	Austin, TX	Vogt	<ul style="list-style-type: none"> • Turnkey replacement of all heating surface • Site supervision & project management
University of Texas	Austin, TX	Vogt	<ul style="list-style-type: none"> • Complete plant assessment & efficiency study

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal

Customer: Vero Beach Municipal Power Plant

Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1

Page No.: 6-2

Date: April 6, 2010

7 APPENDICES

7.1 APPENDIX-1 EXCEPTIONS & CLARIFICATIONS TO CUSTOMER RFP/SPECIFICATION

Below is a list of the RFP and Specifications documents that were provided by the Customer and reviewed by VPI. Attached is a completed copy of the Customer's "Variances" form and marked-up copies of the RFP and Specifications documents showing VPI's associated exceptions and clarifications. VPI's proposal, pricing, and schedule are based on the exceptions and clarifications noted. VPI is not responsible for Specifications not provided.

VPI's exceptions and clarifications to the following documents are attached:

- City of Vero Beach Heat Recovery Steam Generator Superheater Retrofit RFP No. 170-10/PJW, dated March 2010, including:
 - Request for Proposal
 - Instructions to Proposers
 - General Conditions
 - Supplementary General Conditions
 - Bid Proposal
 - Form of Agreement, including Notary forms
 - Affidavit
 - Scope of Work
 - Type III Insurance Required, Revised 02/13/02
- COVB Bid 170-10/PJW, Addendum No.1 to City of Vero Beach Bid, Heat Recovery Steam Generator Superheater Retrofit, dated March 10, 2010.

Also attached are signed copies of each addendum to the RFP.

VPI currently has no comments, exceptions, or clarifications regarding the following Customer-provided specification documents:

- Drug Free Compliance
- Addendum No. 2 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated March 17, 2010.
- Addendum No. 3 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated March 23, 2010.
- Addendum No. 4 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated April 1, 2010.
- SSPC-SP 11: Surface Preparation Specification No.11, Power Tool Cleaning to Bare Metal
- SSPC-SP 3: Surface Preparation Specification No.3, Power Tool Cleaning
- Intertherm 751CSA: Heat Resistant Cold Spray Aluminum
- BAR-RUST 321: Multi-Purpose Epoxy Mastic
- DEVTHANE 379UVA: Aliphatic Urethane Gloss Enamel

NOTICE: This document contains sensitive proprietary information, not intended for release to the general public and exempt from disclosure under applicable laws. Anyone in possession of the document other than the named recipient should immediately destroy the document.

Vogt Power International - Louisville, Kentucky, USA

Document Title: Aftermarket Technical and Commercial Proposal
Customer: Vero Beach Municipal Power Plant
Proposal: HPSH Retrofit

Vogt Power Ref. No.: V69054, Rev.1
Page No.: 7-1
Date: April 6, 2010

CITY OF VERO BEACH

VARIANCES

State any variances to the specifications, terms, conditions, or any part of these documents, in the space provided below or reference in the space provided below all variances contained on any of the pages of the Request for Bid, attachments or bid pages. No variances by the bidder will be deemed to be part of the submitted bid unless each variance is listed and contained within the bid documents and referenced in the space provided below. If no statement is contained in the below space, it shall be implied by the bidder that your bid complies with the full and complete scope of the original bid request.

Request for Proposal RFP No. 170-10/PJW

¶ Reference	Comment/Exception
5	See VPI's mark-ups on the pages of the "Request for Proposal" document.

Instructions to Proposers

¶ Reference	Comment/Exception
2	See VPI's mark-ups on the pages of the "Instructions to Proposers" document.
3	See VPI's mark-ups on the pages of the "Instructions to Proposers" document.
5	See VPI's mark-ups on the pages of the "Instructions to Proposers" document.
11	See VPI's mark-ups on the pages of the "Instructions to Proposers" document.
14	See VPI's mark-ups on the pages of the "Instructions to Proposers" document.

General Conditions

¶ Reference	Comment/Exception
1.F	See VPI's mark-ups on the pages of the "General Conditions" document.
1.H	See VPI's mark-ups on the pages of the "General Conditions" document.
1.K	See VPI's mark-ups on the pages of the "General Conditions" document.
1.R	See VPI's mark-ups on the pages of the "General Conditions" document.
2.A,B,&C	See VPI's mark-ups on the pages of the "General Conditions" document.
3	See VPI's mark-ups on the pages of the "General Conditions" document.
4.A&B	See VPI's mark-ups on the pages of the "General Conditions" document.
6	See VPI's mark-ups on the pages of the "General Conditions" document.
6.A	See VPI's mark-ups on the pages of the "General Conditions" document.
6.C (new)	See VPI's added paragraph in the "General Conditions" document.
6.D (new)	See VPI's added paragraph in the "General Conditions" document.
7	See VPI's mark-ups on the pages of the "General Conditions" document.
8	See VPI's mark-ups on the pages of the "General Conditions" document.
10.A	See VPI's mark-ups on the pages of the "General Conditions" document.
10.C (new)	See VPI's added paragraph in the "General Conditions" document.
11.A,B,&C	See VPI's mark-ups on the pages of the "General Conditions" document.
12	See VPI's mark-ups on the pages of the "General Conditions" document.
14.A	See VPI's mark-ups on the pages of the "General Conditions" document.
15	See VPI's mark-ups on the pages of the "General Conditions" document.
16	See VPI's mark-ups on the pages of the "General Conditions" document.
17	See VPI's mark-ups on the pages of the "General Conditions" document.
18.A&B	See VPI's mark-ups on the pages of the "General Conditions" document.
19.A,B,C,&D	See VPI's mark-ups on the pages of the "General Conditions" document.
20	See VPI's mark-ups on the pages of the "General Conditions" document.
22	See VPI's mark-ups on the pages of the "General Conditions" document.
23.A,D,&E	See VPI's mark-ups on the pages of the "General Conditions" document.
23.G (new)	See VPI's added paragraph in the "General Conditions" document.

Supplementary General Conditions

¶ Reference	Comment/Exception
2.A&C	See VPI's mark-ups on the pages of the "Supplementary General Conditions" document.
3	See VPI's mark-ups on the pages of the "Supplementary General Conditions" document.
6	See VPI's mark-ups on the pages of the "Supplementary General Conditions" document.
9	See VPI's mark-ups on the pages of the "Supplementary General Conditions" document.
10	See VPI's mark-ups on the pages of the "Supplementary General Conditions" document.

Bid Proposal

¶ Reference	Comment/Exception
Intro,1,&2	See VPI's mark-ups on the pages of the "Bid Proposal" document.

Form of Agreement

¶ Reference	Comment/Exception
Article 2.	See VPI's mark-ups on the pages of the "Form of Agreement" document.
Article 4. A,B,&C	See VPI's mark-ups on the pages of the "Form of Agreement" document.
Article 5.	See VPI's mark-ups on the pages of the "Form of Agreement" document.
Article 7.	See VPI's mark-ups on the pages of the "Form of Agreement" document.
Article 8. B,C,D,E&F	See VPI's mark-ups on the pages of the "Form of Agreement" document.
1 st Notary Form	See VPI's mark-ups on the first Notary form.

Affidavit

Reference	Comment/Exception
State	See VPI's mark-ups on the Affidavit form.

Scope of Work

¶ Reference	Comment/Exception
2 (new)	See VPI's added paragraph in the "Scope of Work" document.

Type III Insurance Required, Revised 02/13/02

¶ Reference	Comment/Exception
A.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.
B.1.b.&c.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.
B.2.f.&g.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.
B.3.a.&d.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.
B.4.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.
B.5.e.,f.,h.,&i.	See VPI's mark-ups on the pages of the "Type III Insurance Required" document.

COVB Bid 170-10/PJW, Addendum No.1 to City of Vero Beach Bid, Heat Recovery Steam Generator Superheater Retrofit, dated March 10, 2010

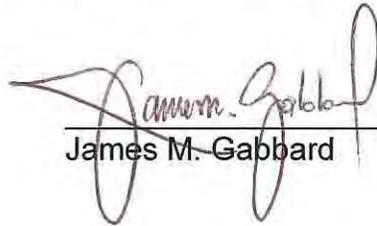
¶ Reference	Comment/Exception
"Additions" ¶1&2	See VPI's mark-ups on the pages of the signed "Addendum No.1" document.
"Additions" ¶5	See VPI's mark-ups on the pages of the signed "Addendum No.1" document.
"Clarification" #4	See VPI's mark-ups on the pages of the signed "Addendum No.1" document.

COUNCIL AGENDA REPORT
MEETING OF MAY 18, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: May 7, 2010
SUBJECT: STRATEGIC LAND PURCHASE

Attached is a memorandum from Ericson Menger, Airport Director, dated May 7, 2010, which provides background information regarding the possible purchase of 87.8 acres of private land along 43rd Avenue west of the Airport.

This item is being placed on the City Council agenda for discussion purposes.



James M. Gabbard

:jav
Attachment

xc: Ericson Menger

N:\AGENDA\AIRPORT\2010\STRATEGIC LAND PURCHASE.DOC

MEMORANDUM

TO: James M. Gabbard, City Manager
FROM: Ericson W. Menger, Airport Director
DATE: May 7, 2010
SUBJECT: STRATEGIC LAND PURCHASE

Attached is a diagram of approximately 87.8 acres of private land along 43rd Avenue directly west of the Vero Beach Municipal Airport, owned by Sandler at Pinecrest, LLC. The 87.8 acres is a portion of the once-proposed Heritage Reserve development, formerly the Dodger Pines Country Club, encompassing over 333 acres west of 43rd Avenue and north of 26th Street.

BACKGROUND

Due to the strategic value of this property for future use by the City, staff had previously discussed the possibility of the City purchasing all 333+/- acres. However, funding was not available at the time and the City Council tabled the matter for future discussion should funds and a development plan become available.

Under your direction, airport staff pursued funding opportunities from the Federal Aviation Administration (FAA) and the Florida Department of Transportation (FDOT). Recent discussions with FDOT indicate that a potential grant in the amount of \$1.6M may become available by October 2010.

Accordingly, it may be possible to purchase a portion of the property west of 43rd Avenue. The property owner has indicated that they would be willing to sell less than the entire 333-acre parcel. Although the actual size has not yet been surveyed or appraised, it is expected that at least the 87+/- acres shown on the attached diagram may be available at current market prices.

One potential concept plan for this property is attached. A small business park surrounded by master-planned compatible uses, green space, and an integral bike path would enable local residents to live and work within a 2-3 mile radius, significantly reducing commute times. If properly zoned and developed, this "Eco-Research Park" could serve the community well, bringing jobs for the residents in the area and ultimately increasing the tax base for the City. As shown on the sketch, the proposed parcel would also create an airport buffer between the residential areas to the west and south, reducing the City's future exposure to noise issues and legal costs.

Because this project would use only airport revenues and FDOT grant funds, there is no cost to the City's general fund. Our anticipated time frame to complete FDOT's requirements for a land purchase indicates an approximate closing date in October 2010.

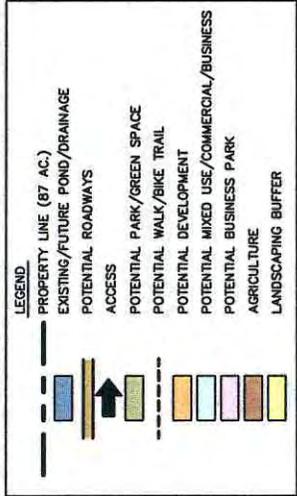
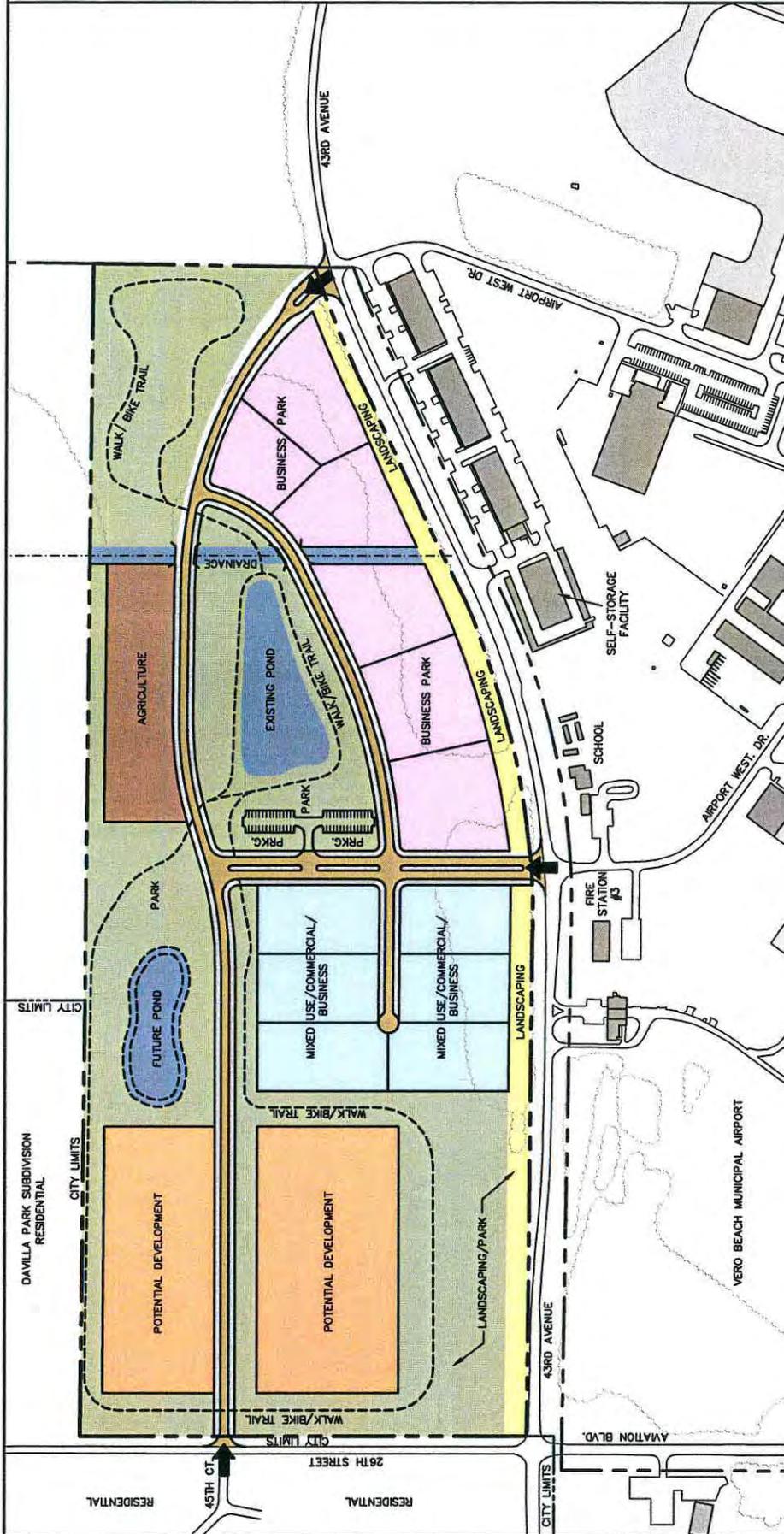
RECOMMENDATION

I recommend this item be placed on the May 18, 2010 City Council meeting for discussion.

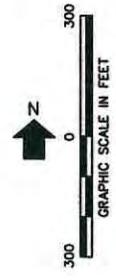
EWM:dfw



NO. 10	DESCRIPTION	APPROVED (DATE)	DATE
PORTION OF VACANT PARCEL / W. OF 43 RD AVENUE			
AERIAL VIEW			
CITY OF VERO BEACH			
DEPARTMENT OF PUBLIC WORKS			
SURVEY DIVISION			
CITY PROJECT NO. 43RD AV			
SHEET 2 OF 2			



DRAFT
REVIEW COPY
MAY 4, 2010



COUNCIL AGENDA REPORT
MEETING OF MAY 18, 2010

TO: The Honorable Mayor and Members of the City Council

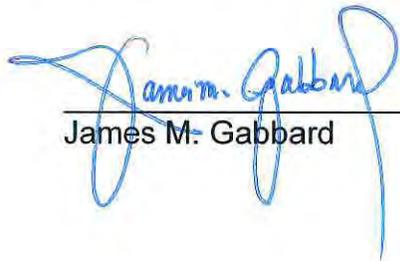
FROM: James M. Gabbard, City Manager

DATE: May 11, 2010

SUBJECT: REQUEST FOR COUNCIL APPROVAL - ELECTRIC T&D REORGANIZATION

Please find attached a memorandum from Randall McCamish dated April 21, 2010 which outlines his recommendation for reorganizing the Electric T&D Department.

It is the recommendation of the City Manager's Office that Council approve the Electric T&D Department reorganization as proposed.



James M. Gabbard

JMG:jav
Attachments

xc: Randall McCamish
John Lee
Stephen Maillet

N:\AGENDA\TD\2010\T&D REORGANIZATION.DOC



DEPARTMENTAL CORRESPONDENCE

TO: James Gabbard, City Manager

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

THROUGH: John Lee, Acting Electric Utility Director *JL 4/21/2010*

DATE: April 21, 2010

SUBJECT: Request for Council Approval – Electric T & D Reorganization.

I am requesting that the Electric T & D department reorganization be placed on the May 4, 2010 City Council agenda for approval. Prior to 2005, Electric Transmission and Distribution, and Electrical Engineering and New Construction, were one department. I am proposing, for the benefit of the City, that the departments become one again. To do so we will need to add two positions, "Manager, Electrical Operations and Design" and "Supervisor, Electric System Design." The Manager position will replace the former "Director, Electrical Engineering and New Construction" position and the Supervisor position will replace the current "Electrical Engineering Associate" position. We will not be adding any new positions overall, just replacing existing ones.

I have attached the job descriptions for the two added positions mentioned above and the new organizational chart. I am proposing that the new Manager be a licensed Professional Engineer and report to the Director of Electric T & D. The new Supervisor of Electrical Design as well as the current Supervisor of Electric Metering, and Supervisor of System Operations would report to the Manager of Electrical Operations and Design. This will save the City some money and help streamline some of the processes for taking care of customers needs and getting projects from the design stage to construction sooner. The new positions would be posted internally to give the City employees the first opportunity to fill them if qualifications are met.



CITY OF VERO BEACH EXEMPT JOB DESCRIPTION

Job Title:	Manager, T & D System Operations and Design		
Dept./Division:	Transmission and Distribution	Reports to:	Director, Transmission and Distribution.
Job Code:	8505	Effective Date:	March, 2010

PRIMARY FUNCTION:

Under limited supervision, plans, organizes and controls all forms of electric utility design and operation, including dispatch operations, fiber optics, phone systems, SCADA, and metering. Performs related duties as assigned.

PRINCIPAL RESPONSIBILITIES:

The following duties have been provided as examples of the essential types of work performed by positions within this job classification. Management reserves the right to add, modify, change or rescind work assignments as needed.

- Plans, organizes, and controls the day-to-day electrical system operations and design, including estimating and preparing work orders, reviewing in-house and contracted design work, and approving residential, commercial, and industrial plans for electric service, and electrical system dispatch operations, including Supervisory Control and Data Acquisition (SCADA) operations.
- Plans, organizes, controls and provides direction of electrical metering operations including the installation, testing, calibration and repair of electromechanical and electronic meters, safety and security issues associated with and required by industry standards. Directs and oversees maintenance of fiber optic telecommunications infrastructure, high voltage circuit breakers, electronic and protective relay sub-systems, transformers, substations, related A/C and D/C protection, control equipment and circuits and promotes the observation of safe work practices.
- Reviews, analyzes, and evaluates electric service delivery methods and systems (from an engineering perspective), identifies opportunities for improvement, and recommends improvement to systems and standard operating procedures to enhance operations and customer service.
- Responds to and resolves inquiries and complaints including requests of the City Manager and elected officials for information and interpretation.
- Represents the City at various meetings and conferences and interacts with a wide range of officials, regulatory agencies, department directors, co-workers and the public.
- Develops plans/work schedules for a variety of projects involving the transmission and distribution system.
- Establishes work priorities, monitors work progress, develops and monitors operating and capital improvement budgets, approves purchases and expenditures. Provides direction and supervises professional, support and bargaining unit employees. Reviews and approves payroll. Appraises employee performance. Counsels, motivates and maintains harmony. Identifies and resolves staff differences, conflicts and deficiencies. Interviews applicants and recommends hiring, discipline, termination, merit pay, promotion or other employee status changes. Enforces personnel rules and regulations and work behavior standards firmly and impartially.

CITY OF VERO BEACH

Job Title:	Manager, T & D System Operations and Design	Job Code: 8505
-------------------	--	-----------------------

KNOWLEDGE, ABILITIES AND SKILLS:

Managerial/technical/professional:

- Considerable knowledge of federal, state and local laws, regulations, rules and ordinances related to electric power transmission and distribution.
- Considerable knowledge of electric utility operations, budgeting, fiscal administration, management, and long-range planning policies, practices and procedures.
- Considerable knowledge of electrical engineering principles and practices.
- Considerable knowledge of general management principles and practices.
- Knowledge of computer hardware and software pertinent to electric utility operations.
- Ability to plan, organize, and direct the day-to-day operations of an electric utility engineering operation.
- Knowledge of the installation, service, maintenance and programming of electro-mechanical and electronic relaying equipment and databases throughout the transmission and distribution system; and
- Knowledge of hardware/software interrelationships, including operating system concepts.
- Knowledge of occupational hazards and safety practices applicable to electric power transmission and distribution operations.
- Knowledge of materials, methods, practices and equipment used in the construction, maintenance and repairs of electric utility transmission and distribution system, meter and substations, system load balancing, and utility right-of-way.

Problem Solving:

- Skill in analyzing problems, identifying alternative solutions, projecting consequences of proposed actions, and implementing recommendations in support of goals.
- Skill in researching, evaluating, and using new methods and techniques for design and operational improvements.
- Ability to interpret oral, written, technical information and data dealing with complex variables to identify, analyze and solve management problems of considerable difficulty.
- Ability to assist with development, organization, and supervision of service personnel engaged in the repair of the system.

Human Resource Management:

- Knowledge of supervisory techniques, and pertinent federal, state and local human resource management rules including the collective bargaining agreement.
- Skill in planning, organizing, assigning and coordinating the activities of hourly staff.

Communication:

- Skill in dealing constructively with conflict and responding with tact, composure and courtesy when dealing with individuals who may be experiencing significant stress.
- Skill in applying appropriate public relations techniques as situations warrant and in forming cooperative relationships with others whom do not have a direct reporting relationship. Ability to establish and maintain effective working relationships with those contacted during the course of work.
- Ability to express ideas clearly and concisely when providing oral and written reports and recommendations on administrative and technical issues.

CITY OF VERO BEACH

Job Title:	Manager, T & D System Operations and Design	Job Code: 8505
-------------------	--	-----------------------

OTHER JOB CHARACTERISTICS:

- On-call twenty-four (24) hours for emergencies.
- May work extended hours including nights and weekends as a supervisor reporting to the Director, Transmission and Distribution.
- Must be able to wear PPE required to perform the essential functions of the job.

MINIMUM REQUIREMENTS:

Education/Experience: Graduation from an accredited college or university with a degree in Electrical Engineering with major course work in power engineering and three years progressively responsible experience in electric utility transmission and distribution.

Licenses/Certification: Possession of a valid Florida Driver's License, Class D. Florida license as a Professional Engineer in electrical engineering.

SIGNATURES/APPROVALS:

	<u>Date</u>		<u>Date</u>
H/R Analyst: _____		Department Director: _____	
Immediate Supervisor: _____		Director, Human Resources: _____	



CITY OF VERO BEACH EXEMPT JOB DESCRIPTION

Job Title:	Supervisor, Electrical System Design		
Dept./Division:	T & D/Electrical System Design	Reports to:	Manager, T & D System Operations and Design
Job Code:	8506	Effective Date:	March 2010

PRIMARY FUNCTION:

Under general supervision, directs the overall operations of the Transmission and Distribution Electrical System Design division; including budget responsibility, capital improvement programs, long-range planning and construction activities, and performs related duties as assigned.

PRINCIPAL RESPONSIBILITIES:

The following duties have been provided as examples of the essential types of work performed by positions within this job classification. Management reserves the right to add, modify, change or rescind work assignments as needed.

- Directs the day-to-day electrical system design operations, including estimating and preparing work orders, reviewing in-house and contracted design work, and approving residential, commercial, and industrial plans for electric service.
- Reviews, analyzes, and evaluates electric service delivery methods and systems, identifies opportunities for improvement, and recommends improvement to systems and standard operating procedures to enhance reliability and improve customer service.
- Ensures all metering equipment is properly sized to meet customer's load (residential, commercial and industrial).
- Analyzes maintenance of fiber optic telecommunication infrastructure, high voltage circuit breakers, electronic and protective relay sub-systems, transformers, substations, related AC and DC protection, control equipment and circuits, and promotes the observation of safe work practices.
- Responds to and resolves inquiries and complaints including requests of the City Manager, Utilities Director, and elected officials for information and interpretation.
- Represents the City at various meetings and conferences and interacts with a wide range of officials, regulatory agencies, department directors, co-workers, and the public.
- Prepares and reviews a variety of engineering plans/specifications for construction, maintenance, and related transmission/distribution system projects.
- Provides direction and supervises professional and support employees. Reviews and approves payroll. Appraises employee performance. Counsels, motivates and maintains harmony. Identifies and resolves staff differences, conflicts and deficiencies. Interviews applicants and recommends hiring, discipline, termination, merit pay, promotion or other employee status changes. Enforces personnel rules and regulations and work behavior standards firmly and impartially.

KNOWLEDGE, ABILITIES AND SKILLS:

Managerial/technical/professional:

- Knowledge of federal, state and local laws, regulations, rules and ordinances related to electric power transmission and distribution.
- Knowledge of electric utility operations, budgeting, fiscal administration, management, and long-range planning policies, practices and procedures.
- Knowledge of electrical system operations including source of power supply, transformers, relays, and feeders
- Knowledge of materials, methods, practices and equipment used in the construction, maintenance and repairs of electric utility transmission and distribution system, meter and substations, system load balancing, and utility right-of-way.
- Knowledge of management principles and practices.

CITY OF VERO BEACH

Job Title: Supervisor, Electrical System Design	Job Code: 8506
--	-----------------------

• KNOWLEDGE, ABILITIES AND SKILLS (Continued):

Managerial/technical/professional

- Knowledge of computer hardware and software pertinent to electric utility operations.
- Ability to plan, organize, and direct the day-to-day operations of an electric utility system design operation.

Problem Solving:

- Skill in analyzing problems, identifying alternative solutions, projecting consequences of proposed actions, and implementing recommendations in support of goals.
- Skill in researching, evaluating, and using new methods and techniques for engineering operations.
- Ability to interpret oral, written, technical information and data dealing with complex variables to identify, analyze and solve operational problems of considerable difficulty.

Human Resource Management:

- Knowledge of supervisory techniques, and pertinent federal, state and local human resource management rules.
- Skill in planning, organizing, assigning and coordinating the activities of professional, technical and hourly staff.

Communication:

- Skill in dealing constructively with conflict and responding with tact, composure and courtesy when dealing with individuals who may be experiencing significant stress.
- Skill in applying appropriate public relations techniques as situations warrant and in forming cooperative relationships with others whom do not have a direct reporting relationship.
- Ability to establish and maintain effective working relationships with officials, department directors, regulatory agencies, employees and the general public.
- Ability to express ideas clearly when providing oral and written reports and recommendations on administrative, financial, and technical issues.

OTHER JOB CHARACTERISTICS:

- On-call twenty-four (24) hours for emergencies.
- May work extended hours including nights and weekends as a supervisor reporting to the Director, Transmission and Distribution.
- Must be able to wear PPE required to perform the essential functions of the job.

MINIMUM REQUIREMENTS:

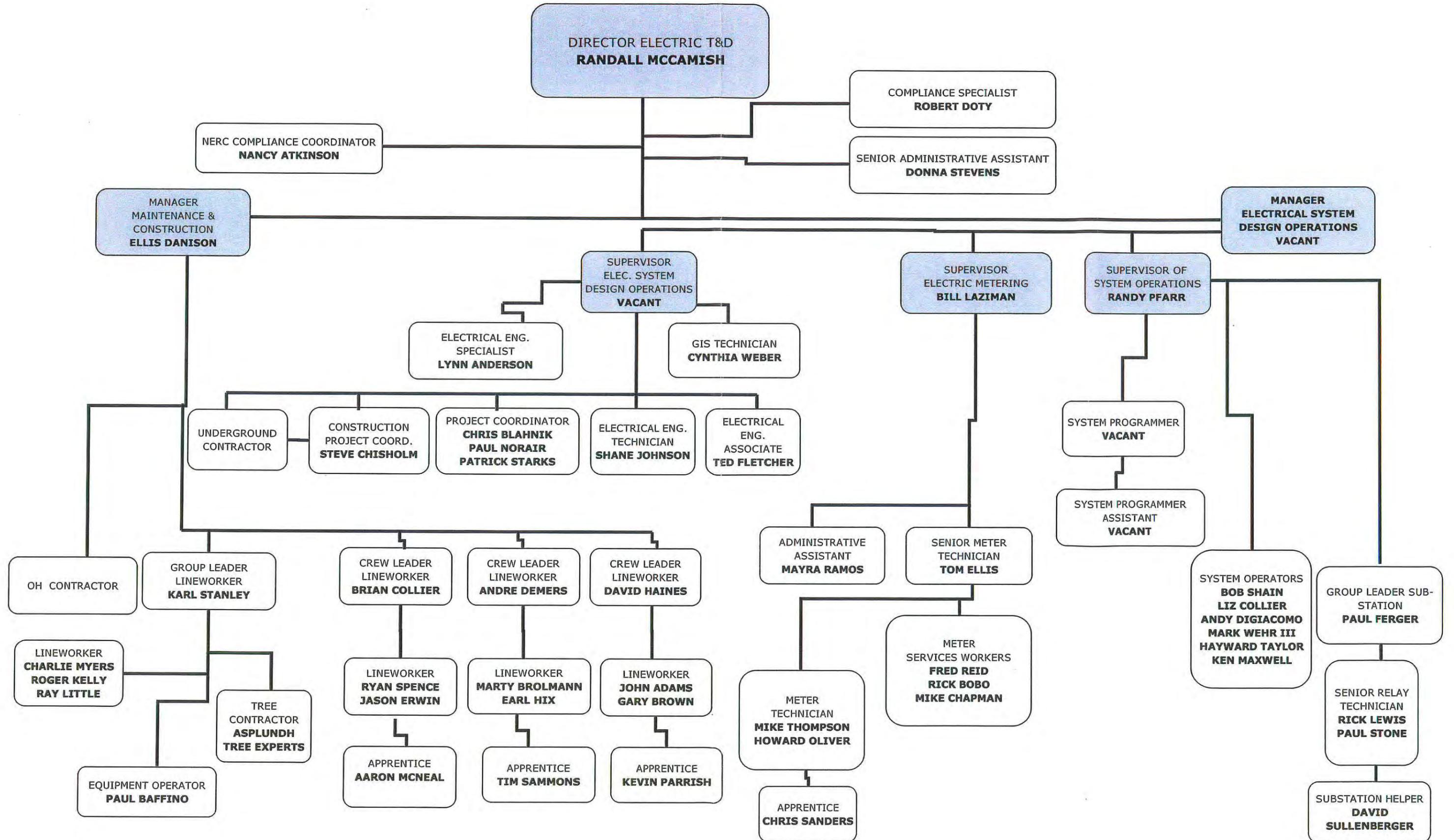
Education/Experience: Graduation from an accredited college or university with an Associate's degree in Electrical Engineering technology or closely related field and seven (7) years electric utility design experience, or closely related work; or an equivalent combination of training and experience.

Licenses/Certification: Possession of a valid Florida Driver's License.

SIGNATURES/APPROVALS:

	<u>Date</u>		<u>Date</u>
H/R Analyst: _____		Department Director: _____	
Immediate Supervisor: _____		Human Resources: _____	

ELECTRIC T&D ORGANIZATIONAL CHART

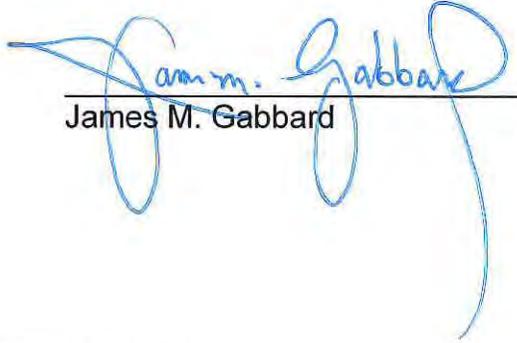


COUNCIL AGENDA REPORT
MEETING OF MAY 18, 2010

TO: The Honorable Mayor and Members of the City Council
FROM: James M. Gabbard, City Manager
DATE: May 11, 2010
SUBJECT: INTERNSHIP PROGRAM POLICY

Attached is a copy of a proposed Internship Program Policy.

This item is being placed on the Council agenda for review and consideration.


James M. Gabbard

JMG:jav
Attachment

xc: Robert Anderson

N:\AGENDA\HUMANRESOURCES\INTERNSHIP PROGRAM POLICY.DOC

INTERNSHIP PROGRAM POLICY

The City of Vero Beach will, when finances and resources permit, provide a limited number of internships whereby students who wish to do so may gain real life career experience in the workplace. The following provisions will apply:

- A. An internship is a one-time, curriculum-related work assignment, which may be paid or unpaid depending on the department and what is required of the student for the position.**
- B. Each intern position will have a written job description describing the duties of the position and the qualifications necessary to perform those duties. Each internship shall comprise one or more projects to be completed by the intern.**
- C. Each applicant for an internship shall submit a completed City of Vero Beach employment application and a signed release to conduct background and/or credit checks.**
- D. Each applicant for an internship shall undergo a background check, physical examination and drug screen prior to being offered an internship.**
- E. Each person selected for an internship shall receive a written offer letter detailing the terms and conditions of the internship.**

FAIR LABOR STANDARDS ACT FACTORS

The U.S. Department of Labor's Wage and Hour Division has developed the six factors below to evaluate whether a worker is a trainee or an employee for purposes of the FLSA.

- 1. The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction;**
- 2. The training is for the benefit of the trainees;**
- 3. The trainees do not displace regular employees, but work under their close observation;**
- 4. The employer that provides the training derives no immediate advantage from the activities of the trainees, and on occasion the employer's operations may actually be impeded;**
- 5. The trainees are not necessarily entitled to a job at the conclusion of the training period; and**
- 6. The employer and trainees understand that the trainees are not entitled to wages for the time spent in training.**

If all of the factors listed above are met, then the worker is a "trainee", and an employment relationship does not exist under the FLSA, and the FLSA's minimum wage and overtime provisions do not apply to the worker.

Internship: Model Work-Study Internship Program

	Student Intern	Company Supervisor	Faculty Coordinator
Name			
Address			
Phone			

This letter of agreement confirms the responsibilities of the company, the student intern and the faculty coordinator in the internship, the beginning and ending dates of the internship, and the due dates for the performance evaluations. This agreement will be provided to the company prior to the student reporting to work at the company.

The variety in the size and function of the company participating in the internship may, in some cases, require slight modifications of the procedures contained in these guidelines. Significant modification of these procedures should be mutually approved and in writing signed by all of the parties signing the original agreement.

Beginning date of the internship:

Completion date of the internship:

Will the intern be paid? yes _____ no _____

If yes, how much? \$ _____ per _____

Will the intern receive college credit for the internship? yes _____
no _____

If yes, how many hours credit? _____

Intern's weekly work schedule:

Position:

Location of company work assignment:

The employer is under no obligation to offer full-time employment to the student prior or after graduation. Likewise, the student is under no obligation to the employer after completion of the prescribed work period(s) for an Internship.

Responsibilities

Student Intern: As the student intern enters the company he/she is expected to assume, as much as possible, the role of a regular staff member. The responsibilities include:

1. Adhering to company work hours, policies, procedures and rules governing professional staff behavior.
2. Adhering to company policies governing the observation of confidentiality and the handling of confidential information.
3. Assuming personal and professional responsibilities for his/her actions and activities.
4. Maintaining professional relationships with company employees, customers and so forth.
5. Utilizing a courteous, enthusiastic, open-minded, critical approach to policies and procedures within the profession.
6. Relating and applying knowledge acquired in the academic setting to the company setting.
7. Developing a self-awareness in regard to attitudes, values, behavior patterns, and so forth that influence work.
8. Preparing for and utilizing conferences and other opportunities of learning afforded in the company.
9. Being consistent and punctual in the submission of all work assignments to the supervisor and faculty coordinator.
10. Providing the faculty coordinator with periodic progress reports.

AGREED _____
Student Signature

Employer: It is the responsibility of the employer to provide direct, on-the-job supervision of the student intern which includes the following:

1. Orienting the student intern to the company's structure and operations.
2. Orienting the student intern to the company's policies and procedures regarding appropriate dress, office hours, applicable leave policies.
3. Introducing the student intern to the appropriate professional and

clerical staff.

4. Providing the student intern with adequate resources necessary to accomplish job objectives.
5. Orienting the student intern to the policies and procedures of the personnel department.
6. Affording the student intern the opportunity to identify with the supervisor as a professional staff person by jointly participating in office interviews, meetings, conferences, projects, and other personnel and management functions.
7. Assigning and supervising the completion of tasks and responsibilities that are consistent with the student intern's role in the company.
8. Consulting the faculty coordinator in the event that the supervisor becomes aware of personal, communication or other problems that are disrupting the student intern's learning and performance.
9. Providing regularly scheduled supervisory conferences with the student intern.
10. Participating in joint and individual conferences with the student intern and faculty coordinator regarding the student intern's performance.
11. Submitting an evaluation on the student intern's job performance.
12. Submitting a job description for the student intern by _____ (date).

AGREED _____
Employer Signature

Faculty Coordinator: The faculty coordinator assumes overall responsibility for consultation with the company and interns on objectives, agreements, and other job-related tasks. The faculty coordinator is available to the student intern in an advisory capacity with respect to assisting the student intern to achieve the stated objective of the internship. The role of the faculty coordinator involves:

1. Individual preplacement orientation and introduction of the student intern to the nature and purpose of the internship.
2. Orienting and introducing the company supervisor to the purpose and objectives of the internship.
3. Consulting with the company supervisor and student intern on a regular basis regarding the student intern's performance.
4. Assuming responsibility for the removal of a student intern from the internship setting whenever necessary.

AGREED _____

MEMORANDUM

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Sabin Abell
Vice Mayor

DATE: May 11, 2010

SUBJECT Agenda Item – Old Business – Times of City Council Meetings

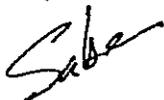
It is important to relook at the times that we are holding our City Council meetings. This item has been discussed at prior meetings and I feel it imperative that I bring it up again because of the long meetings that we consistently have. It would be my suggestion that all of the Council meetings be scheduled for 9:30 a.m., unless there are matters that need to be discussed after 5:00 p.m.

There are people who might attend our meetings but when they are held at night they prefer not to drive at night. I have also been told that some people request for items to be discussed when they are heard during the day so that they don't have to spend their whole evening at a Council meeting.

Also, it makes it a long day for staff to have to attend a night meeting after working all day.

I appreciate your consideration in adopting a new policy that our Council meetings will now start meeting at 9:30 a.m., every first and third Tuesday of the month. With summer coming there are a lot of activities occurring in our community and some of our citizens may like to attend rather than attending a City Council meeting.

SA/tv



9B-1)

MEMORANDUM

TO: Mayor Kevin Sawnick and
City Councilmembers

FROM: Ken Daige
City Councilmember

DATE: May 12, 2010

SUBJECT: Wreath Placement Ceremony

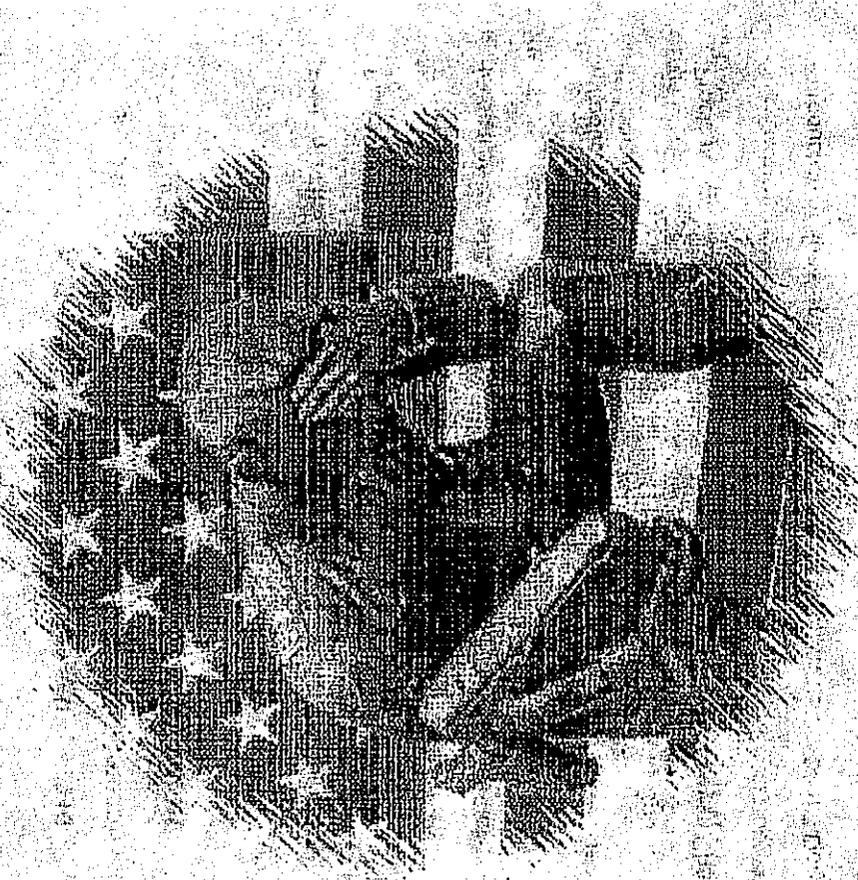
Recently, I attended the Indian River County Multi-Agency Law Enforcement Wreath Placement Ceremony held at the Indian River County Courthouse. Unfortunately, as this ceremony was taking place there were several airplanes flying overhead that disrupted the ceremony making it hard to hear what was being said. I would respectfully request that in the future when this event is to occur that the Airport Director requests from the FAA that these planes be rerouted just for this short period while the event is taking place. This event usually takes place around the same time period every year, so these arrangements can be made ahead of time.

Thank you for your help in this matter.

KD/KS

XC: James Gabbard
City Manager

Eric Menger
Airport Director



*Indian River County
Multi-Agency Law Enforcement
Wreath Placement Ceremony*

May 10, 2010

at 10:00 a.m. at the

Indian River County Courthouse

Sponsored by the

Indian River Co. Sheriff's Office



OFFICE OF THE CITY ATTORNEY

MEMORANDUM

To: Mayor and Council
From: Charles Vitunac, City Attorney
Subject: Policy for "Old Business" and "New Business" on Agenda
Date: May 11, 2010

At the May 4, 2010, Council meeting Councilmember Daige asked what types of items should go under "New Business" and "Old Business" on your meeting agendas. Relevant portions of the agenda are as follows:

- (9) City council matters.
 - a. Old business.
 - b. New business.

- (10) Individual councilmember's' matters.
 - a. Mayor's [*and other Councilmember's*] matters
 - 1. Correspondence.
 - 2. Committee reports.
 - 3. Comments.

"Old Business" (sometimes called "Unfinished Business") relates to matters requiring Council action that are carried over from a previous meeting and may include:

- 1. any matter that was pending when the previous meeting adjourned;
- 2. any matters on the previous meeting's agenda that were not reached;
- 3. matters that were postponed to the present meeting; and
- 4. matters which were discussed at a previous meeting but not resolved.

"New Business" is the term used for any new matters brought by a Councilmember for action. Council policy requires that sufficient backup be provided by the sponsoring Councilmember so that the other Councilmembers and the public may be advised in advance as to what the matter entails.

Therefore, all matters that require Council action shall be placed under "Old Business" or "New Business" and not under Individual Council Matters, which is reserved for correspondence received, reports of committee meetings attended, and general comments not requiring action.