

**CITY OF VERO BEACH, FLORIDA  
JULY 20, 2010 9:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

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

**B. Invocation**

The invocation was given by Dr. Tim Harris of First Presbyterian 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 Clerk removed items 3-A) and 3-B) off of the agenda at the request of the applicant.

Mr. Abell made a motion that items 9A) 1-9 and 9B) 1-2 be deleted from the agenda because backup material was not provided. He also wanted to make part of the motion that the City Clerk not put anything further on City Council matters, Old Business or New Business unless there is backup provided. Mayor Sawnick seconded the motion.

Mayor Sawnick read through all the items that Mr. Abell requested be removed from the agenda.

Mr. Daige requested that under Councilmembers Reports, because of today's lengthy meeting, that they put their reports off until their next meeting.

Mr. Heady commented that they have asked that a couple of things be done. They have asked under this item which is agenda additions, deletions and adoption, to delete items and then further have asked to change the way Councilmembers add things to the agenda or have the City Clerk be a gatekeeper of what is placed on the agenda. It seems to him that these are two very different items and they would need to separate them. They are discussing matters under additions and deletions and not under the way that they do business.

Mayor Sawnick agreed with Mr. Heady and asked Mr. Abell to restate the motion not including the second part (not putting items on the agenda if backup material is not provided). He felt that Council should have prior notice of that before hand and put it on their agenda for the next meeting with proper backup. He withdrew his second to the motion.

Mr. Abell made a motion to remove items 9A) 1-9 and 9B) 1-2 from the agenda because there is no backup material. Also they have been warned by their Attorney not to discuss some of these items because they are potentially part of the lawsuit that Mr. Heady has brought before the Council. Mayor Sawnick seconded the motion.

Mr. Heady wanted the record to reflect that every single thing that he has put on the agenda under Old Business and New Business is being removed.

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

Mr. Daige thought that they had agreed at previous meetings that backup material should be provided with each item that is on the agenda.

Mr. Charles Vitunac, City Attorney, recalled that Council made that as a policy, but they did not direct the City Clerk not to accept items without backup material. He felt that since it is already their policy that they could direct the City Clerk not to accept items for the agenda unless backup material is provided.

Mayor Sawnick made a motion that in the future any items based on City Council policy that does not have backup material, the City Clerk is not to put the items on the agenda. Mr. Daige seconded the motion.

Mr. Heady wanted to make sure that he had this clear. What they have before them is a motion to delete anything without backup and there is no backup on this motion. He asked if that was correct. He said that they (other Councilmembers) are going to put something on without any backup and the item is not to discuss things that have no backup.

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

Mayor Sawnick made a motion to adopt the agenda as amended.

Mr. Daige asked if Councilmember's Matters could be heard at their next meeting. He made a motion that they put Councilmembers Matters off until the next meeting because he feels that this meeting is going to be quite lengthy. Mr. White seconded the motion.

Mr. Heady commented that now that they have all of his items taken off of the agenda, now what they want to do is take and remove all Councilmembers items because one Councilmember feels that the meeting might take a long time. He said they (Councilmembers) are paid to come in here and have a couple meetings a couple times a

month. He said if it takes a long time, they bought into this when they agreed to do this \$900.00 a month job. It seems to him that it doesn't make a difference how long it takes. They are here to deal with people's business, which includes open public business and this is beyond absurd what they are doing. He clearly is opposed to having Councilmember's Matters taken off the Council agenda.

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

Mr. Heady made a motion that an item be added to the agenda – "Discussion on Special Call Agendas." The motion died for lack of a second.

Mr. Heady made a motion to add to the agenda discussion of the definition of unick (spelling may not be correct). 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. Certificate of Completion to be awarded to Councilmember Brian Heady for completing the Advanced Institute for Elected Municipal Officials**

Mayor Sawnick presented Councilmember Heady with a certificate for completing the Advanced Institute for Elected Municipal Officials.

Mr. Heady mentioned that what they teach at this Institute, which the Mayor has not taken, is how important it is for government to have open public discussions on the issues that face the City. He said clearly that is not the intent of the majority of this Council. They have no desire to discuss anything that is not important to them. They would rather control the public discussion. He thinks that maybe all four of the Councilmembers need to go take a good course in what principles make this Country great because they certainly are ignoring them.

### **2. Treasure Coast Waterway Cleanup Day – July 24, 2010**

Mayor Sawnick read and presented the Proclamation.

## **C. Public Comment**

### **1. Mr. Don Voss to speak on Marina Cleaning Initiative**

Mr. Don Voss, of Ft. Pierce, Florida, commented that for the last nine years he has been holding Marine cleanup dives to remove debris. He received some grant money to do cleanup and needs matching money from all the different municipalities in order for the program to work. He displayed an invention that he has come up with and that is a

devise that someone would hang up in their car and the aroma would be the smell of the beach.

## **2. Corporal Darryl Rivers to speak about PBA Negotiations**

Corporal Darryl Rivers, who is a proud Police Officer with the City of Vero Beach, was at today's Council meeting to talk about current negotiations.

Mr. Vince Champion, President of the Coastal Florida Police Benevolent Association, commented that the reason he was at their meeting was that there may be some misunderstanding as to where they are in regards to negotiations. He said that one of the biggest misunderstandings has to do with furlough days. He has heard that they have accepted or bought into furlough days. He told Council that they have only had two negotiation meetings this year and it was brought up one time. He said that there have not been any decisions made and it has not gone back to their membership. He wanted it made clear to Council that they have not bought into this and at their next negotiation meeting set for July 27<sup>th</sup> these things will be discussed. He said that the Sebastian Police Officers do take furlough days, but they also received a pay raise. What the Police Officers who work for Vero Beach are really looking for at this point is just to be left alone. They are willing to sit down and discuss the issues and the Police Officers have tried to help the City as much as they can. One way is through overtime. They have tried to cut down on overtime as much as they can. Mr. Champion mentioned that the Police Officers are also seeing other things that are occurring. They are seeing issues where there have been six Officer positions that never have been filled. Then all of a sudden they hire three new Police Officers at \$110,000. He said they fill these positions and then in the next breath they are asked to take furlough days. So the Officers do not understand what is being done here. They are trying to save on overtime to do their part to help. He said they managed without the six new Police Officers. Then they find out that three new Police Officers have been hired and they may be asked to take furlough days. He said if you have any questions he would be glad to answer them. The Police Officers want to continue working for the City of Vero Beach and at this point they would like to leave things as they are and just "weather" this storm and do it together.

Mayor Sawnick expressed how important safety is and said that Council will do what they can.

Mr. Brad Mitts, Detective of the Vero Beach Police Department, commented that he has been employed with the Police Department for three years and in that short time has been involved in very stressful situations. He said that law enforcement is one of the most dangerous occupations there is. He gave some instances and showed on the screen some accidents that have occurred. He explained that being a Police Officer requires a lot of sacrifices, but they will continue to work hard for the safety of their citizens.

Mr. Phil Huddy, Corporal of the City of Vero Beach Police Department, has worked for the Department for ten years. He said that when he first started with the force he thought this would be a good organization for a successful career in law enforcement. Recently

he has been concerned for the Department and for the City of Vero Beach as a whole. It appears that there are forces at work seeking to dismantle this City and its Police Department – Department by Department, brick by brick. He has seen morale in his Department drop dramatically over the last couple of weeks. It has been difficult for him to come to work lately. There are two things that keep him going. One is his sense of duty and responsibility to the individuals who employ him, the citizens of Vero Beach and second is his responsibility to the men and women of the Police Department. This is the same sense of duty that drives the Police Officers who are present for today's meeting and all the other Officers on duty. They not only risk their lives and fight for survival every day, but they are here before Council fighting for their economical survival as well. Some of his fellow Officers are concerned that he may be committing career suicide by speaking before the Council today. In the last ten years there have been 31 Officers who have voluntarily resigned from the Vero Beach Police Department (this does not include retirees) to go to work for other agencies. These Officers left and properly reimbursed the City for monies used to train them for law enforcement. He said four of those 31 Officers have voluntarily resigned in the last nine months. He said that due to recent developments regarding pay, health benefits, and retirement that some of the Officers have to make some of the most difficult decisions of their lives and the lives of their families. Those decisions are whether to stay employed as an Officer for the City of Vero Beach or being an Officer elsewhere. Some of the Officers are even considering other career opportunities outside of law enforcement all together. At this time he asked all the Police Officers to stand. He went over the different degrees that various Police Officers hold in the Department. He then showed a stack of commendations that some of the Officers have received. In his opinion the Officers working for the City of Vero Beach Police Department are highly trained. They answered calls after the hurricanes while their family members were left alone without power. He mentioned that Mr. Daige, Mr. White and Mr. Heady have all reached out to the Police Department so they know firsthand the level of service that this Department provides to the City of Vero Beach. He only mentions these three men by name because of the fact that the same level of service that they provide to their City government is the same level of service that they provide to the residents of the City. There are not many Police Departments in the State of Florida, or the Country, where you can call the Police Chief with questions and have them answered by a member of the Police Department. Corporal Huddy then asked the families of the Police Officers, as well as the retired Police Officers to stand. He said that they have been told by some of the City Administrators that it is not personal, it is just business. He asked Council to take a look around and asked if it gets any more personal than this. The children whose parents are in law enforcement learn at a very young age the dangers that their mothers and fathers face every day. The Officers of the Vero Beach Police Department kiss their spouses and children goodbye before every shift knowing that they may not come home. These families loan their love ones to the community so that people may work and live without fear. He asked the City Council, City Manager and citizens of the City of Vero Beach to take a good look at these officers and their families and asked if they were prepared to tell them that the sacrifices that they are making every day are not worth enough for them to keep the wages, health insurance and retirement benefits that they currently have.

Mayor Sawnick told the Police Officers in attendance that the City Council appreciates everything that they do for this community.

Mr. Heady commented that clearly there has been something that has triggered such an emotional and passionate plea to the Council. He asked them to give to him with specificity exactly what it is that triggered this and what it is that he can do to cure it. He asked that it be given to him before the budget hearings. He will do what he feels is correct for the citizens, taxpayers and for the Police Department.

Corporal Rivers assured Mr. Heady that he would receive that information.

Mr. Jack Chestnut, Retired Sergeant from the Vero Beach Police Department and a School Crossing Guard for the last three years asked to speak. He understood that they were eliminating School Crossing Guards. He was told to turn in his uniform the last day of school because they would not have a job next year. He felt that School Crossing Guards were necessary for the safety of their children.

Mr. Joseph Guffanti commented that it was refreshing to note that the Council is not discriminating against the Police Department and is treating them the same way that they treat the rest of the City employees. He did not agree with the Mayor asking a Police Officer for their address when they stepped up to the podium. He brought up the red light cameras and the cost of them. He said that each camera costs \$4,750 a piece which equals to \$180,000 going to the firm hired to monitor the cameras which is out of Scottsdale, Arizona. He noted that this contract dates back to last year and there is a place for hidden fees that no one in the City of Vero Beach will know that the money went out of the community and into the hands of this firm located in Scottsdale, Arizona. He wanted to know how these cameras are going to handle right turns on red and when a car needs to stop in order not to receive a ticket. He felt that the contract was invalid and a new contract needed to be drawn up according to State law. He said one of the worst things is the privacy issue. This company will have the name and address of people who own cars in the State of Florida. They can do anything that they want with this information. Anyone that supports this does not really care about the City of Vero Beach.

Ms. Linda Hillman alluded to the fact that the Indian River County Clerk of the Circuit Court has a lot of public information. She said that if you vote someone in that has other issues, which is backed by County money, then the City is going to be in more trouble than they already are. She thinks what they have in the City of Vero Beach now is wonderful. The Council today are not the same Council that voted in the original electrical contract. The citizens of this community had better look at their taxes before they decide to sell the Power Plant. She said that there are four seats up for election in November and unfortunately there are not five seats up for reelection. If the people would have checked everyone's background there would be five seats up right now because she is sure that what is in the background of one City Councilmember and how much he has lied, cheated and stolen from the citizens of this City, people would be sorry that they elected him.

Mr. Rusty Bragg stated the sale of the utilities is going to be a disaster. His electric bill is the lowest that it has been in a long time. He felt that if the Power Plant is sold that his rent will go up because taxes will have to be increased. He was opposed to selling the Power Plant. He noted that there is a 14.2% unemployment rate in this County.

Ms. Barbara Lambing reported that last year she worked on a project that took her five years to develop, which was alternate forms for energy. She noted that they have a gas problem and probably will run out of gas within the next two or three years. They need to find different ways to conserve what they have and produce new ways to produce energy. She gave Council a copy of her report and hoped that it pleased them.

Mr. J. Rock Tonkel stated that in advance of the meeting scheduled for this afternoon (Special Call meeting where FP&L will be giving a presentation) he wanted to make a few comments. In an editorial written by former Mayor Warren Winchester, it states that he has come to the conclusion that the utilities should be sold. He hoped that Council would listen to what he has to say. He recalled an article where former Councilmember Lynne Larkin talked about the necessity for facts. He said that her editorial did not contain facts, but just her opinion. He still could not understand why the County was not being asked to be involved in this process. They represent a lot of ratepayers who are funding the City operations. He feels some relief coming with the sale of utilities to be purchased by FP&L. He said that anyone who looks at the facts will find that taxes are not going to quadruple for City residents. As far as FP&L is concerned, their conduct to date has been outstanding. They have placed a great emphasis on a need to work closely with the City Council and will continue to conduct themselves with a great deal of integrity. He has talked before about the fact that Grand Harbor, at least for the last ten or fifteen years, has been a model that should be studied and looked at. There are 300 residents who receive their power from FP&L. The other 1,000 residents receive their power from the City of Vero Beach. They have not had any problems with FP&L and they are not criticizing the City. He just thinks that the criticism of FP&L does not factually stand up. He hopes that the whole Council will open their minds and conduct negotiations with FP&L in good faith.

Mr. Heady mentioned to Mr. Tonkel that there are 300 residents living in his subdivision who have FP&L and 1,000 residents who have Vero Beach electric. He asked if it would be possible for him to get to him similarly sized electric bills in terms of usage (one from FP&L and one from the City of Vero Beach). He then asked if the electric utilities for Grand Harbor was all underground. He was told that the utilities are put underground for any new subdivisions in Indian River County.

Mr. Philip Katrovitz went over some unsafe things that occur with having red light cameras. He read a prepared speech (please see attached).

Mr. Glen Heran asked if at the budget hearings that start on tomorrow will there be public comments allowed. He was told yes. Mr. Heran then said that he would reserve his comments until tomorrow. He felt that if Council would allow him and Dr. Faherty to

make a presentation to them they could prove that no matter what the citizens, taxpayers, and ratepayers will be better off. He would appreciate the opportunity to come and speak. He wondered if it would be possible to make a motion to have this done at their next meeting.

Mayor Sawnick explained that they are dealing with FP&L and once they (FP&L) give them some numbers, they will be using those figures. He felt that they were on the right path.

Mr. White expressed to Mr. Heran that he has heard their presentation. They also had their accountant do a study and they received a letter back from their accountant, which he read. The letter indicates that taxes will go up if FP&L takes over their system. However, he will listen to the facts from FP&L.

Mr. Heran felt that they were moving in the right direction by letting FP&L continue to move forward.

Mr. Heady commented that the path they are on does not include the Heran/Faherty presentation. The item has been put on the agenda numerous times and continues to be removed. It is interesting that the Mayor talks about the right path, but we don't want to listen to all the information. It seems to him that if they are going to do anything as decision makers the thing that they should do is listen to all input. If there is a nut case out there that puts a nutty presentation together he thinks they (Council) should be intelligent enough to understand that the individual is a nut case and it is a nutty presentation. If on the other hand someone presents to them the facts that are well thought out, that are clear, identifiable and verifiable then they need to look at them and use it as a measure as to what their decisions are going to be. So far what they have refused to do is allow opposing points of view to be put before this Council and the community. Mr. White just read a letter from their accountant, which is good, but before he makes a decision he wants to hear from everyone. He doesn't understand why this Council refuses to do that and it is certainly "suspect."

Council took a five-minute break at 10:50 a.m.

#### **D. Adoption of Consent Agenda**

Mr. Daige pulled items 2D-4), 2D-5) and 2D-7) off of the consent agenda.

Mr. Heady verified with the Clerk that the changes he requested were made to the minutes of June 1, 2010 and June 15, 2010. She said that they were. Mr. Heady did not pull those items off of the consent agenda.

Mr. Sawnick made a motion to approve the consent agenda as amended. Mr. Daige seconded the motion.

#### **1. Regular City Council Minutes – June 1, 2010**

2. **Regular City Council Minutes – June 15, 2010**
3. **Special Call City Council Minutes – June 24, 2010**

These items were approved under the consent agenda.

4. **Monthly Capital Projects Status Reports**

Mr. Daige referred to the Monthly Capital Project Status Report and asked that in the future the pages be numbered. He had a question on the Obstruction Removal. He noticed when these reports come to them they have received previous approvals. He said instead of using the words “Obstruction Removal” could they just use the word “Update.” He is not in favor of removing any trees or cutting any trees down because he has not seen any reports yet. Mr. Vitunac said that there was no problem with that change.

Mr. Heady referred to the \$7,000,000.00 projects that involve Water and Sewer. He pointed out that they currently have the full service area that they are providing services to and 40% of those customers are likely to leave and no longer will be receiving service from Vero Beach. He knows that this \$7,000,000.00 is based on all of those customers and when those customers leave the City customers will be left paying the bill. His last question had to do with the force main. He asked if the reuse water revenues support these kind of expenditures or do these expenditures just roll over.

Mr. Rob Bolton, Water & Sewer Director, reported that the reuse rate has been raised over the last couple of years. He said that once the contracts expire with the two golf courses and John’s Island Water Management then the reuse rates will support all the costs of improvements, operations and debt service for the reuse system. It has been supplemented over the years. Mr. Heady said then the answer is that now it does not support itself, but it will sometime in the future.

Mr. Abell asked Mr. Bolton to explain to their new member that the items he questioned were decided at least one year ago and were necessary when DEP told them that that they were not allowed to have effluent water going out during wet discharge days.

Mr. Bolton explained that the consent orders go all the way back to 2005 and these projects were all approved about a year ago to satisfy DEP’s concerns of contaminants entering into the Lagoon.

Mr. Heady stated that the new member that Mr. Abell is talking about is him and he understands the history of these things. At a recent meeting they decided to forego the increases in water and sewer rates recommended by a consultant that they spent a ton of money for. His concern is that sometime in the future that the County and Indian River Shores customers are going to leave and keeping the rates down is a popular thing to do, but when those customers leave the City residents are going to end up with these projects (millions of dollars worth of projects) and the long term debt is going to be on the backs of just the City ratepayers.

Mayor Sawnick made a motion to accept the Monthly Capital Projects Status Report. Mr. White seconded the motion.

Mr. Daige asked the City Manager to address some of the points that Mr. Heady was just speaking about. He said especially on the rate decreases that they just implemented.

Mr. Gabbard stated that unless there is something that he is not familiar with, they have received no notification from anyone exiting the agreements that they have with the areas that Mr. Heady described. He knows that there has been an analysis done by the County and based on that analysis there may be some decisions made. But the contracts extend to 2017. There is no definitive answer that these entities are exiting their agreements.

The motion passed unanimously.

## **5. Replacement of Television Equipment**

Mr. Daige pulled this item off of the consent agenda and asked if the live video streaming of the Council meetings has been included in the replacement project.

Mrs. Tammy Vock, City Clerk, answered yes.

Mr. Daige made a motion to approve the request. Mayor Sawnick seconded the motion.

Mr. White asked where the funding will come from. Mrs. Vock said that it will come out of the one cent sales tax.

Mr. Heady asked if they could display a time banner at the end of their tapings.

Mr. Shane Dewitt, Television Consultant, said that they would be able to do that.

Mr. Heady asked about the existing equipment.

Mrs. Vock said that they will be asking other Departments if they have a use for the old security cameras.

The motion passed 5-0.

## **6. Commercial Lease between the City of Vero Beach and Ferrellgas, LP**

This item was approved under the consent agenda.

## **7. Commercial/Office Lease agreement between the City of Vero Beach and Legacy Flight Training, LLC**

Mr. Daige referred to page 5 and page 10 of the lease agreement. He said on page 7 it talks about alterations and it talks about how the tenant may be allowed to make

alternations, changes, additions or improvements to the interior of the lease premises. He said that these lease premises are located at their Airport terminal. What he would like to do with the lease agreement is include information where permits are needed for alternations as well, as depicted on page 10.

Mr. Eric Menger, Airport Director, said that this will be done.

Mr. Daige made a motion to approve 2D-7) with these changes as he just mentioned. Mayor Sawnick seconded the motion and it passed unanimously.

### **3. PUBLIC HEARINGS**

- 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 21<sup>st</sup> Street (US Highway 1) and 10<sup>th</sup> Avenue, including all of the replat of Henning's Subdivision that lies North of 21<sup>st</sup> 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.**

This item was removed from the agenda at the request of the applicant.

- 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 21<sup>st</sup> Street (US Highway 1) and 10<sup>th</sup> Avenue, including all of the replat of Henning's Subdivision that lies North of 21<sup>st</sup> 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.**

This item was removed from the agenda at the request of the applicant.

- C) An Ordinance of the City of Vero Beach, Florida, amending Chapter 76, Historic Preservation, of the City of Vero Beach Code by revising or Creating New Definitions in Section 76.02; creating New Article VI, Ad Valorem Tax Exemptions for Improvements to Historic Properties pursuant to Sections 196.1997 and 196.1998, Florida Statutes; providing for authorization; providing for eligibility and procedures for revocation of Tax Exemption; providing for conflict and 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 Ordinance will enable the City Council to authorize ad valorem tax exemptions for improvements to historic properties. The ad valorem tax exemption (City property taxes only) would be for 100 percent of the assessed value of all improvements to eligible historic properties for a period of ten years. The Historic Preservation Commission and the Planning and Zoning Board unanimously recommended approval of the Ordinance by the City Council. The Planning and Zoning Board recommended that the City pursue obtaining a Certified Local Government designation by the Florida Division of Historic Resources to be eligible for historic preservation grants. He said that only properties designated as a historic site (placed on the Vero Beach Register of Historic Places) would be eligible for the tax exemption. He then went over the process for seeking a tax exemption. He said that an application must be filed. Subsequent to the approval of the development permit and issuance of a "certificate of appropriateness" the applicant may then file a "pre-construction application," which after reviewed for eligibility and completeness, is submitted to the Division of Historical Resources of the Florida Department of State. After the Division has completed its review and forwarded its comments and recommendations to the Planning Director, a public hearing before the City Council will be scheduled and advertised. At this hearing, the City Council may grant or deny the application. He was asked at their last meeting to look into having a threshold for the improvements to the property. He looked at St. Augustine who have a threshold of \$20,000 placed on their properties. He felt that the way to go was just to impose a \$50.00 application fee which would cover the administrative costs. He passed out a copy of the amendment, which would cover the preconstruction application process.

Mr. Daige attended the Planning and Zoning Board meeting when this item was discussed. He wondered if there would be some adverse effect on some of the neighborhoods if the City is not a certified government.

Mr. McGarry explained that the Planning and Zoning Board would like the City to have a certified local government designation and they are working on that.

Mr. Daige asked Mr. McGarry to keep the City Manager posted on this and he (Mr. Daige) will keep Council posted. He would like them to move forward on this as soon as possible.

Mr. Heady asked how many properties will this have an impact on.

Mr. McGarry explained that at the present time there are only three properties.

Mr. Heady commented on how much work they are doing for only three properties. He suggested enacting an Ordinance that would have impact on any properties that want to come in and do restoration projects. It seems to him that it would be much more beneficial to include everyone.

Mr. McGarry explained that they are authorized by State law on what properties can and cannot be included.

Mayor Sawnick opened the public hearing at 11:25 a.m.

Mrs. Vicki Gould, President of the Osceola Neighborhood Association, stated that she was in favor of this Ordinance and hoped that Council would support it.

Mayor Sawnick closed the public hearing at 11:26 a.m., with no one else wishing to be heard.

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

#### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

None

#### **5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING**

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 58 "Personnel and Retirement," Article II, Division 4 of the Code of Ordinances of the City of Vero Beach to provide for Compliance with State and Federal Laws and Regulations and Section 401(a) of the Internal Revenue Code; providing for repeal of all Ordinances in conflict herewith; providing for severability; providing for codification and providing an effective date.**

Mayor Sawnick read the Ordinance by title only.

Sergeant David Pusher, Chairman of the Police Pension Board, told Council that this was just a housekeeping measure. He explained that the Internal Revenue Service (IRS) has changed some language in Florida Statute 185 on the way that they receive money and this Ordinance was necessary in order for the Board to implement these changes in their plan.

Mr. White made a motion to approve the Ordinance on first reading and set the public hearing for August 17, 2010. Mayor Sawnick seconded the motion.

Mr. Heady asked if there were any cost analysis for this.

Sergeant Pusher explained that there would not be any additional costs, but their actuary would need to present those figures.

Mr. Heady noted that there were no signatures from staff on the last page of the Ordinance.

Mr. Vitunac explained that he could not sign off on this as being legally sufficient. There would need to be the Pension Board's Attorney or Actuary present to answer any technical questions. He said that it was not possible as the City Attorney to analyze if it is correct or not.

Sergeant Puscher would make sure that the Board's Attorney was present for the meeting when this Ordinance will be heard.

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Daige voting yes, Mr. Heady no because he wants some assurance that the Ordinance meets all technical requirements, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

**B) An Ordinance of the City of Vero Beach, Florida, amending the Code of the City of Vero Beach, Part III Land Development Regulations, Title VII Land Development, by adding Chapter 78 to be entitled "Dog-Friendly Dining", establishing the City of Vero Beach "Dog-Friendly" Dining Program: providing a local procedure and regulations pursuant to Florida Statutes Section 509.233 to permit Exemption from certain provisions of the United States Food and Drug Administration Food Code as adopted by the Florida Division of Hotels and Restaurants in order to allow patrons' dogs within certain designated outdoor portions of Public Food Service Establishments; providing for enforcement; providing for conflict and severability; providing for codification; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Wayne Coment, Assistant City Attorney, explained that this Ordinance would give Mr. McGarry the power to enforce regulations for the City regarding dog-friendly dining. If a restaurant business does not want to participate they do not have to. This is strictly on a volunteer basis.

Mr. White commented that he would like Shelly Ferger, from Dogs for Life, to come and talk to the Council about dogs being allowed in retail stores. He has noticed that a lot of people are taking their dogs to the grocery store, etc., and the laws are very questionable and they should educate themselves on how this works. He said animals going into stores may be a bigger problem in the future. He agreed with allowing dogs at Greenhouse Café (restaurant requesting this Ordinance). He referred to page 4 of 15 where it discussed outdoor areas and stated that a portion means an area not enclosed in a building which is intended or used as an accessory area to a public food service establishment which provides food and/or drink to patrons for consumption in such area. He wondered if there were going to be any problems with the way that this paragraph is written.

Mr. Coment explained that this is mandated by the State (reason that it is included in the Ordinance). He said that if a restaurant wants to participate then they have to meet this requirement. He said that he could look at maybe tweaking the definition somewhat. But the regulations are pretty much set out by the Statute. He will meet with Mr. McGarry to look at it to see if there are any changes that the Greenhouse Café would have to meet in order for this to work.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for August 17, 2010. Mr. White seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

**C) An Ordinance of the City of Vero Beach, Florida, amending the Code of the City of Vero Beach, Chapter 54 Parks and Recreation, Section 54-2 definitions, by adding definitions for “Bloodbaiting” and “Chumming” and amending certain other definitions for clarification and consistency; amending Section 54-49 Water Activity and Surfacing, by adding Subsection 54-49(e) making unlawful Bloodbaiting and Chumming from any Park or Beach within the City and in the Waters of the Atlantic Ocean within one-half mile of the mean high-water line within the City limits and amending certain other provisions for Clarification and Consistency; providing for conflict and severability; providing for codification; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Coment explained that this is another Ordinance that Council requested. He said rather than trying to draft something that conflicts with State law, because the State has preempted salt water fishing and they cannot regulate that without a special bill or having Fish and Wildlife adopt a rule for their area. They handled this by addressing it through the bloodbaiting chumming. They very broadly defined this type of conduct and this would apply throughout the City on their beaches and out into the water a half a mile. They went the furthest distance that they found that other cities used. If Council wanted to decrease the distance then they could certainly do that.

Mayor Sawnick felt that both sides agree that this should not be happening on their beaches.

Mr. Coment expressed that anyone wanting to fish with a regular hook and bait still will be able to do that. They did tweak some of the other water activities for Parks. One important thing is they expanded the definition of “beach” to make it match more closely with what they have with the Turtle Ordinance.

Mr. White referred back to what Mr. Coment just said about the State law and salt water fishing. He asked if the City of Vero Beach could outlaw or forbid shark fishing within the City limits.

Mr. Coment explained that they can only enforce it within land that is owned by the City. They can regulate in that area the bloodbaiting and chumming, but they cannot regulate the salt water fishing because it is preempted to the State.

Mr. White mentioned that within the City of Vero Beach their beaches are very populated. He felt that the City needed to be a little more restrictive because of their concerns for the public.

Mr. White then asked where are the people in the shark fishing tournament that starts in another week going to fish from.

Mr. Rob Slezak, Recreation Director, explained that there are rules that do not allow this type of fishing within the guarded areas and public beaches. The tournament would have to be held outside the public bathing areas.

Mr. Coment added that the tournament will be held either on private property or on State owned property.

Mr. Heady noted that Mr. Slezak just stated that there is no fishing of any description allowed in protective beaches. He thought that what they could do under current law is direct Mr. Falls to put up signs at every City beach that say "No Shark Fishing." If there is a sign staring someone in the face that says "No Shark Fishing" they will go somewhere else. This could be done by a simple direction from this Council.

Mr. Coment said that could be done. He said that the way this Ordinance is written it says that basically on any marked designated beach everything is illegal unless there is a sign that states it is allowed.

Mr. Heady suggested just making his recommendation about putting up the signs and they could be up by Friday.

Mr. Daige felt that the City Attorney's office did a very good job preparing this Ordinance. He felt that they needed to move forward on the Ordinance and hold the public hearing at their next meeting. Also, when they make the motion they should include in the motion that the beaches be marked with these signs as suggested by Mr. Heady.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for August 17, 2010. Mr. White seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

Mr. White made a motion that they authorize Mr. Falls to make some signs for their public Parks/beaches saying "No Shark Fishing." Mayor Sawnick seconded the motion.

Mr. Abell brought up the fact that there are already signs that tell you what you cannot do at the beach.

Mr. Daige suggested just leaving this up to the City Attorney and City Manager. If they are allowed to include the word “shark” on the sign that would be great. If they are not allowed by law then that is understood, but he just wanted to get this done.

Mr. Coment stated that Chief Dappen has just pointed out that when someone is out on the beach fishing, his officers will not have any idea what they are fishing for.

Mr. Heady reiterated that there is no fishing allowed on the beaches now. This just sends a message for shark fishermen to go somewhere else.

The motion passed unanimously.

**D) An Ordinance of the City of Vero Beach, Florida, amending the Code of the City of Vero Beach, Chapter 74 Traffic and Vehicles, Article V Intersection Safety, in order to comply with the “Mark Wandall Traffic Safety Act,” Laws of Florida, Chapter 2010-80; providing for implementation of the “Mark Wandall Traffic Safety Program” and the use of Traffic Infraction Detectors in the City; authorizing Traffic Infraction Enforcement Officers to issue notices and citations pursuant to the program; providing for conflict and severability; providing for codification; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Coment reported that this Ordinance is prompted by the newly enacted State Legislation where they have preempted the City’s current Ordinance and provide regulations and procedures for implementation and operation of a red light camera enforcement program. Most of the City’s existing Ordinance is deleted and replaced with what is mainly authorizing language to implement the program provided under the State Legislation. Many of the provisions of the State adopted program are similar to that which was previously adopted by the Council, with the main difference now being appeal of violations will go to the County Court rather than to the City’s Code Enforcement Board. The new Legislation also provides for a two step process where a “notice of violation” is first sent to a violator and then only if the penalty is not paid or an exception shown, a “citation” is issued and sent to the violator. The State Legislation also requires warning signs and a public awareness campaign. As far as the contract goes, they are reviewing it and hope to have it back to Council on the same day as the public hearing is heard on this Ordinance.

Mayor Sawnick explained that they are just clarifying the Ordinance that they passed months ago to coincide with the State law.

Mr. White asked if they will have to renegotiate the contract.

Mr. Coment stated that they are in the process of doing that right now.

Mr. White wondered if there will be enough money left over for the City once the State and ATS are paid their fair share.

Mr. Coment explained that right now as it stands, the City would retain \$75.00 from every \$158.00 ticket. The City has to pay for the services to ATS to install the cameras, issue the notices, etc.

Mr. White then asked with all these changes from the State, are they still obligated to go forward with this.

Mr. Coment felt that since ATS has not spent any money they probably would let the City out of the contract.

Mr. Daige wanted to make it clear that after hearing what Mr. Coment just said that they are not obligated to go with this contract.

Mr. Coment explained that the laws have changed such that they have to change the terms of the contract and there was a provision in the contract saying that they could terminate the contract if the laws changed.

Mr. Daige stated that he was not in favor of moving this forward and he was not in favor of the red light cameras. He feels that the cameras will cause problems down the road. He wanted to take a look at a new contract first before they move anything forward. He has heard from the public that they are not pleased that Council is going to move forward with the cameras. He wanted to know if they could get rid of the whole contract or are they still on the "hook" somehow.

Mr. Vitunac suggested moving this Ordinance to a public hearing. He said all this Ordinance is doing is giving them authority to operate under the State law. This would give them the basis to go ahead and negotiate the contract, which they will bring to Council. If Council does not vote for the contract then the program will be killed. He felt that they could get out of the present contract and not do the red light camera program if that's what they want to do. What this Ordinance does is keeps the process moving forward so they have a choice later when they bring the contract back for Council to consider.

Mr. Heady said they have a choice right now and the choice right now is not to do this. They have an out where it is not going to cost the City anything if they just do not move this forward at all and do not authorize the City Attorney to negotiate a new contract. The terms of the contract as it exists right now does not meet State requirements. If they move in favor of this, what they are going to do is add to the burden of the Police Officers. They heard some of the Police Officers plead this morning that they are looking to cut their pay, cut their pension and their benefits and this would add to the burden of

Police Officers because every single one of these photographs taken is going to have to be reviewed by a Police Officer. He said lets not add to their burden and not add to the taxpayer's burden. He agreed with Mr. Daige that this should not be moved forward and they should just let it die.

Mr. Daige commented that within the City of Vero Beach there are a lot of elderly drivers who try to drive as safe as they can. There are enough economic concerns being placed on their citizens and he did not want to place any more burdens on them. He felt right now they could put a stop to this and revisit it at another time. He has heard all about safety and does not need to hear about it anymore. He said that this is not a good move for this community.

Mayor Sawnick explained that by passing this Ordinance it just clarifies the law and does not bind them. He would like to see them pass this Ordinance.

Mr. Heady agreed with Mr. Daige's comments. He said that they have had this conversation before and were told by staff that they would not move forward on this until they came back to Council. However, staff has proceeded with this Ordinance and he felt that they were given fairly clear direction that they were not to do anything until they came back to Council first. It is upsetting that when you give direction to staff that they apparently pay no attention. He made a motion not to approve this Ordinance. Mr. Daige seconded the motion.

Mr. Don Dappen, Police Chief, wanted to let Council aware that...

Mr. Daige called Point of Order. He thought that legally when they were under a motion that it closes out any discussion.

Mr. Vitunac said that is the case for the public, but not for staff.

Chief Dappen continued by saying that the State has passed a law making it legal to do this. He wanted to set their minds at ease if they thought that this was going to be a burden on the taxpayers. He explained that the contract that ATS has proposed has a forgiveness clause in it. That means that if the City for some reason does not make enough money and there is not enough money to pay ATS's bill, the City will not have to dig into their own coffers to pay ATS. He said that for the most part there is no cost to the City of Vero Beach. He said one of his Lieutenants will be reviewing the cameras on a daily basis. Also, no citation is a citation, and no infraction is an infraction, unless the Lieutenant deems it to be.

Mr. Heady stated that if one of his Lieutenants was going to be involved then that would mean that the Police Chief is going to be involved because he oversees his Lieutenant. He said that if it is a code violation then that means that a Code Enforcement officer would also have to be involved. Also, when talking about the forgiveness clause, staff's time is not going to be deducted first to see whether or not there is enough money to pay ATS. In this economic climate they should not add to the burden of the taxpayers. If it is

an issue in regards to safety and there are people that consistently run traffic lights this will do nothing to stop them from continuing on that path as long as they want to pay the fine. However, if there were Officers patrolling these intersections they could issue someone a traffic infraction rather than a Code violation. Chief Dappen informed Mr. Heady that this was a traffic infraction. However, someone's license cannot be impacted by this as it could be if there was a Police Officer involved.

Chief Dappen did not know what his Officers were going to say when they got up before Council to speak to them this morning, but he said they made their argument clear to Council about the dangers of their job. There is a problem in this community with people running red lights and this is the best he can come up with to combat this problem.

Mr. Heady recalled that he read an article in the Press Journal where the City of Vero Beach had stepped up its night time enforcement of seat belt violators. He had a hard time believing that they had enough Police Officers citing people who were not wearing a seat belt, but they don't have enough Officers to stop someone from running through a traffic light.

Chief Dappen knew that Mr. Heady would not want to visit an accident where someone has not been wearing their seat belt and has been thrown through the windshield. He told Mr. Heady that he failed to see the humor in this and finds it offensive. He said that it is a very important law to enforce that everyone should be wearing their seatbelt. The reasons his Officers were stepping this up is because twice a year the State of Florida has seatbelt waves to increase the number of people wearing their seatbelts. It has been very successful and has resulted in fewer deaths in the State of Florida. He said that it is extremely important that his Officers enforce that law. That is what they are paid to do. He did not want to put a strain on anyone's budget or scare anyone. However, sometimes it takes this kind of action to get people to pay more attention to what they are doing. When they see that big sign that states this intersection is protected by cameras, they might think twice before running a red light.

Mr. Heady stated that he did not think anyone on this Council has indicated that any part of this was humorous, so he did not know who Chief Dappen was referring to. As far as him being offensive, Chief Dappen was not the only one that finds him offensive. However, there are probably a lot of taxpayers who find the burden on them pretty offensive. He said if they have problems at red lights then there are some ways to solve the problems. With the existing equipment they can change the red lights so that all four directions are red for a period of a second or two. Sending a quarter of a million dollars out of their community to a firm in Arizona is not one of the things that he thinks that they should be entertaining.

Mr. White commented that he has always been a supporter of red lights. His question was could the State put the cameras up and do their own traffic enforcement.

Chief Dappen answered yes and explained that if they did that then they would have to pay the City a fee. He anticipates that will happen in the future.

Mr. Daige asked in the event that this goes through, what is the minimum time frame that can be inserted into the contract.

Mr. Coment explained that they would be proposing an amendment to the contract that it be for five years and one of those five years has already passed.

Mr. Daige asked if they could amend the contract to have it approved on a year to year basis.

Mr. Coment did not know.

Mr. Daige would like to see them have a year to year contract so they would not be locked into any fees. This will give the City the option to pull out if the program is not working. He does not like doing business with out of State companies. However, he understands that there are not very many companies that do this kind of work. He said in moving forward he would recommend going year to year.

Mr. White understood that they are just moving this Ordinance forward to a public hearing to be consistent with Florida Statutes.

Mr. Daige reiterated that by going year to year they are not locked into any fees. He is concerned with this community and the pressures that they are under economically. His other suggestion is that if they are going to move this forward, then make the yellow lights stay on longer at the intersection.

Mayor Sawnick called for the vote on the motion. The motion failed 3-2 with Mr. White, Mr. Abell and Mayor Sawnick voting no.

Mayor Sawnick made a motion to approve this Ordinance on first reading and set the public hearing for August 17, 2010. Mr. Abell seconded the motion.

Mr. Heady asked that there be an amendment to the Ordinance not to move this forward until a contract is approved.

Mr. Daige wanted to give staff direction to look into a year to year contract so that they are not locked into a dollar figure and if they need to pull out then they can.

Chief Dappen will need to talk to the company to see if they are willing to put that into the contract.

Mr. Vitunac stated that at the public hearing they will bring back this Ordinance as well as the draft contract.

Mr. Daige asked if they could incorporate those suggestions that have been made today.

Mr. Vitunac explained that they could put them in the contract, but the company may not accept it.

Mr. Coment reiterated that the contract that they have now is for over the life of the term, which means there are four years left. If they do not bring in enough revenue to cover all their expenses then at the end of that term nothing would be coming out of the City coffers. They have a contract but it is subject to termination.

Mr. Daige suggested scrapping the contract that they have now and moving forward with a new contract.

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

Mr. Daige made a motion to scrap the original contract and come up with a new one. Mr. White seconded the motion and it passed 4-1 with Mr. Abell voting no.

Mr. Abell read the last sentence of the memo prepared by Mr. Coment that said "Please let us know of any questions you may have on this subject or if there are any other materials you require or would like to have for consideration." He said that if there is a Councilmember short in doing this then they are being delinquent in their duties.

Mr. Daige commented that sometimes discussion comes up and needs to be put out so the public can hear what is going on.

Mr. Heady said that the Vice Mayor has made some comments about some people not acting in a responsible way with respect to Councilmembers not doing their homework and not asking these questions first. He thinks that really what it amounts to is that there is a difference of opinion on how they should do public business. He said that Mr. Abell believes that all of these things should be done, taken care of and answered before the public meeting is ever held. He thinks that public business needs to be done in the public eye and these questions need to be asked and answered at a public meeting.

Mr. Abell told Mr. Heady that he did not say anything like that. However, what he is saying is you need to come better prepared for answers that he wants to put out instead of being educated here.

Mr. Heady asked Mr. Abell what questions did Mr. Daige ask that led him to believe that he wasn't educated on this subject.

Mayor Sawnick stated that at this time they will be taking a five-minute break.

Mr. Heady told Mayor Sawnick that when he allows one member to have a discussion, he thinks it is important.... At this time Council, took a short break.

- E) A Resolution of the City of Vero Beach, Florida, approving the Transmittal to the State of Florida Department of Community Affairs of a proposed City of Vero Beach Comprehensive Plan Amendment to amend the Text of the Land Use Element; Traffic Circulation Element and Capital Improvements Element; providing for an effective date.**

Mayor Sawnick read this Resolution and the following Ordinance together (5-F) by title only.

Mayor Sawnick made a motion to approve the Resolution on first reading and set the public hearing for August 17, 2010. Mr. Daige seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

- F) An Ordinance of the City of Vero Beach, Florida, amending the Text of the Land Use Element, Traffic Circulation Element, and Capital Improvements Element of the City of Vero Beach Comprehensive Plan by revising or creating policies to encourage the location of multi-modal transportation facilities including an Amtrak Passenger Rail Station in Downtown Vero Beach; revising the level of service standard for A1A North of State Route 60 (Beachland Boulevard) and clarifying language describing roadway level of service standards; providing for an effective date.**

Mr. McGarry explained that when they do comprehensive plan amendments they also have to do a transmittal procedure. There are two areas in the Code they are looking to amend. The first is the Amtrak station and the second has to do with the level of service on A-1-A north of Beachland Boulevard.

Mr. Heady had some concerns that they were combining two different things into one vote.

Mr. Vitunac explained that they were not adopting these items, they are transmitting them to the State.

Mr. McGarry explained that if it is Council's wish they can separate the two. He only did them this way as a matter of convenience to save some time.

Mr. Heady preferred that very different issues, such as these, come before the Council for an individual vote.

Mr. White referred to page six of the Ordinance where it states "Therefore a revision to the existing LOS standard requires the use of the maximum service volume for LOS "D" plus a percentage of this maximum service volume. For example, the LOS standard could be set at "D" plus 20% (924 + 185 + 1,109 vehicles per peak hour direction) or "D" plus 30% (924+277+1201 vehicles per peak hour direction)." He asked where did they receive this information.

Mr. McGarry explained that the County keeps an update on this. He said that there is no level of service “F.”

Mr. Daige asked if there were any plans in the future to widen 20<sup>th</sup> Avenue. Mr. McGarry did not think so.

Mr. Heady asked if there were any costs to the taxpayers for moving this forward.

Mr. McGarry said no costs other than administrative costs.

Mayor Sawnick made a motion to approve this Ordinance on first reading and set the public hearing for August 17, 2010. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

## **6. CITY CLERK’S MATTERS**

None

## **7. CITY MANAGER’S MATTERS**

### **A) Award of Bid No. 240-10/JV – Crestlawn Cemetery Columbarium**

Mr. Monte Falls, Public Work’s Director, reported that this contract is for providing and installing eight columbaria on the parcel of land located in the northwest corner of Crestlawn Cemetery. This project will also include installing irrigation and landscaping in this area and the work will be performed by City crews. They have been working on moving forward with this project for the last couple of years.

Mr. Abell made a motion to approve the Award of Bid No. 240-10/JV, for a Crestlawn Cemetery Columbarium, to Brian Couture’s Cemetery Lettering in the amount of \$178,000.00. Mr. Daige seconded the motion.

Mr. Heady noted that there was a \$60,000 difference in the bids. He asked why the low bidder did not meet the criteria.

Mr. Falls explained that the low bidder did not meet the specifications and, therefore, is considered to be non-responsive.

Mr. Heady asked if the money comes from the cemetery fund. Mr. Falls answered yes.

The motion passed unanimously.

### **B) Indian River Drive East Sidewalk Construction**

Mr. Falls reported that this sidewalk project was requested by the local residents in 2007 and a petition was presented in December 2008. The petition indicated that a majority of the residents were in favor of the project. Subsequent to the receipt of the petition they began design of the proposed sidewalk improvements. At Fiddlewood Road and Greytwig Road, there are existing stormwater outfall ditches, which were in conflict with the proposed sidewalk location. As part of their ongoing outfall retrofit program they prepared plans for the construction of nutrient separator baffle boxes to provide stormwater treatment for the outfall discharge into the Indian River Lagoon and to allow the closure of the outfall ditches to eliminate the conflict with the sidewalk. Based on the petition and the need for safer pedestrian access in this area he would recommend the sidewalk project and stormwater improvements move forward for construction.

Mayor Sawnick made a motion to approve the sidewalk construction and the associated stormwater improvements for Indian River Drive East. Mr. Abell seconded the motion.

Mayor Sawnick commented that this area is right by a school so it is important that this work be completed.

Mr. Daige wondered, because this was near the waterway, if there was some grant money available. Mr. Falls told him that there is not any grant money available for this project.

Mr. White commented that the one cent sales tax for capital improvements can only be used for capital improvements.

Mr. Heady noted that the signatures on the petition date back two and a half years. He asked if there was any knowledge of how many people still live at these locations. Mr. Falls did not have that information.

The motion passed unanimously.

**C) Community Development Block Grant (CDBG) – Jacoby and Piece of Pie Park Playgrounds**

Mr. Falls recommended that Council move forward with this contract for playground equipment at Jacoby and Piece of Pie Park and the Change Order No. 1 for Park lighting.

Mr. Daige made a motion that Council approve the contract with Lanier Plans, Inc., dba Korkat, Inc., for playground equipment at Jacoby and Piece of Pie Park and Change Order No. 1 for Park lighting. Mr. Abell seconded the motion.

Mr. Daige thanked the City Manager, Mr. Falls, and their grant writing firm for being able to obtain this grant. He said that it helps having a company who can come in to handle getting these grants.

Mr. Heady asked if the grant writing company is paid out of the proceeds received from the grant. Mr. Falls answered yes.

The motion passed unanimously.

**D) Unit 3 Forced Outage**

Mr. Jim Stevens, Power Resources Director, reported that in May the Florida Municipal Power Pool (FMPP) scheduled Unit 3 to be on line at 1:00 p.m. During start up of Unit 3 operators noticed a high vibration on bearing T2, the unit tripped off line due to this high vibration. Operations attempted to put Unit 3 back on line but could not due to high turbine vibration issues. Unit 3 was placed in a forced outage and is unavailable for use in the FMPP. He notified the FMPP and Orlando Utilities Commission (OUC) of this forced outage and called General Electric Services (GE) to assist in trouble shooting the vibration problem. Several recommendations were made by GE with discussions focusing on steam conditions. Staff supports that the steam conditions to Unit 3 have not changed. The first possible mechanical item identified was a possible bearing failure issue, the second item was a turbine/generator shift that created misalignment, the third was a mechanical failure of the turbine blades and the fourth was a possible generator stator or rotor winding failure. In order to return Unit 3 to service GE field representatives and Power Plant staff removed two turbine bearings, and sent them to the GE shop for analysis and repair and installed the bearings back onto Unit 3 turbine. When the bearing work was complete Unit 3 was tested with the same high vibration noted. The next phase to return Unit 3 to operational status is to have GE perform a load alignment of Unit 3.

Mr. White asked do they know what is causing the vibration. Mr. Stevens answered no. Mr. White knew that they were losing money by having Unit 3 shut down.

Mayor Sawnick made a motion that Council authorize payment to GE for the cost to repair the turbine bearings for Unit 3. Mr. Abell seconded the motion and it passed unanimously.

**8. CITY ATTORNEY'S MATTERS**

None

**9. CITY COUNCIL MATTERS**

**A. Old Business**

- 1. A different consideration for a date for presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady**
- 2. Still waiting for written answers from City Manager – Requested by Councilmember Heady**
- 3. Missing report from City Manager requested by Councilmember Daige – Requested by Councilmember Heady**
- 4. November Elections – Requested by Councilmember Heady**

5. **Debate on Sale of Electric – Requested by Councilmember Heady**
6. **8/12/08 to be played and discussion to follow – Requested by Councilmember Heady**
7. **Update on a Federal Lawsuit – Requested by Councilmember Heady**
8. **Honest Services Fraud – Requested by Councilmember Heady**
9. **Golf Course – Requested by Councilmember Heady**

A motion was made earlier in the meeting to pull these items off of the agenda. The motion passed 4-1 with Mr. Heady voting no.

**B. New Business**

1. **Water and Sewer Issues – Requested by Councilmember Heady**
2. **City Parking – Requested by Councilmember Heady**

A motion was made earlier in the meeting to pull these items off of the agenda. The motion passed 4-1 with Mr. Heady voting no.

3. **Tourist Tax in relation to Beach Renourishment – Requested by Councilmember Daige**

Mr. Vitunac referred to his memo, which outlines the tourist tax (please see attached memo).

Mr. White commented that he has been a member of Beach and Shore’s Committee since 1990 and would be happy to answer any questions. He said that right now they are done with Sector 3 and will start looking at Sector 5, which is an engineered beach and could be Federally funded.

Mr. Daige added that the City has nothing to do with spending tax dollars for beach renourishment.

Mr. Gabbard announced that the electric portion of the budget will be heard at 1:30 p.m. tomorrow afternoon (different from the original time schedule).

Mr. White asked that on the next agenda that Council considers “G.W. Stikelether Jr. Drive” being added to 22<sup>nd</sup> Street between 14<sup>th</sup> and 15<sup>th</sup> Avenues.

**10. INDIVIDUAL COUNCILMEMBERS’ MATTERS**

Individual Council reports were not heard at today’s meeting.

**A. Mayor Kevin Sawnick’s Matters**

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

- B. Vice Mayor Sabin Abell's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- C. Councilmember Tom White's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- D. Councilmember Brian Heady's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- 1. FP&L and public business in the public eye**
- 2. Liars, Cheats and Thieves**
- 3. Bad Information = Bad Decisions**
- 4. Correspondence**
  
- E. Councilmember Ken Daige's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

**11. ADJOURNMENT**

Mayor Sawnick made a motion to adjourn today's meeting at 1:06 p.m. Mr. White seconded the motion and it passed unanimously.

/tv