

CITY OF VERO BEACH, FLORIDA
AUGUST 17, 2010 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

The invocation was given by Dr. Earl Morgan of First Christian 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

Mrs. Tammy Vock, City Clerk, requested that item 3-D) Ordinance regarding the red light cameras be tabled until the October 5, 2010 City Council meeting. She also asked that at the request of the applicant that item 7-A) "Discussion and Comments Regarding Moratorium on Opening of Pain Management Clinic" be heard after Public Comments.

Mr. Daige referred to item 7-A) being moved up on the agenda and wondered if there would be public comments.

Mr. James Gabbard, City Manager, did not plan on there being any public comments.

Mr. Heady did not mind moving this item up on the agenda as long as the public has the opportunity to address this issue if they wish to.

Mr. White pulled item 9D-1) "Renaming 22nd Avenue between 14th and 15th Avenues in honor of Graham W. Stikelether, Jr." off of the agenda.

Mr. Heady reported that he sent a memorandum to the City Clerk requesting items be placed under Old Business and New Business, none of which are on the agenda (attached to the original minutes). He requested that all the items in his memorandum be added to tonight's agenda. He noted that the items were received by the City Clerk timely and

were items that he desired to speak about. He said that they were matters of public importance, matters over which this Council has authority and matters that the public has the right to hear. He said that he would like each and every single item that he requested in a timely matter to be placed on the agenda.

Mayor Sawnick stated that it was Council's policy that items added to the agenda must have adequate backup. Council directed the City Clerk not to place items on the agenda without proper backup. He stated said that if you (Mr. Heady) would like to add those items to the agenda at this time, he could make a motion.

Mr. Heady made a motion to add under Old Business: 1) the FEMA audit going on – Homeland Security going on, 2) consideration of the ballot initiative for electric utility to be placed on the ballot in November, 3) discussion of replacing the vacancy in City Manager Office, 4) reconsideration of presentation of a financial matter from Dr. Faherty and Glenn Heran and setting up a date for such a presentation, 5) still waiting for the answers from the City Manager that have been requested meeting after meeting, 6) missing report from the City Manager requested by Councilmember Daige, 7) other considerations of the November election, 8) the 8/12/08 County Commission to be played with a discussion to follow, 9) update on a Federal Lawsuit, 10) honest services fraud, 11) golf course, and items to add under New Business: 1) water and sewer issues and 2) City Parking. The motion died for lack of a second.

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

B. Proclamations

- 1. National Health Center Week – August 8 – 14, 2010**
- 2. 35th Anniversary of the VNA**

Mayor Sawnick read and presented both proclamations.

- 3. Cheryl Conely/Teacher of the Year**

Mayor Sawnick presented Mrs. Cheryl Conely, Teacher of the Year, with a Key to the City.

C. Public Comment

Mr. Darryl Rivers of Vero Beach, Ms. Pamela Stern, 1166 Pelican Bay Drive, Daytona Beach, Florida and Mr. Mike Skidero (spelling may be incorrect), 1166 Pelican Bay Drive, Daytona Beach, Florida, introduced themselves to the Council.

Mr. Mike Skidero reported that he would be speaking on behalf of Mr. Rivers and Ms. Stern. He said that they were before Council a few weeks ago and they had a full house attending that meeting. He said that the turnout tonight was a little less, which he felt

was because the demoralization was beginning to set in. The communication they received at the last Council meeting was that they would work this out and get this taken care of and then three days later the drastic cuts that the Police Officers were being asked to shoulder continues. They are present tonight to ask that Council reconsider this as they are at the two minute warning. He said that over the past few weeks there have been burglaries taking place, and these Officers are risking their lives pursuing this every step of the way. He said that this was a very serious time where crime is not going down. The types of crimes that these Officers have been pursuing is exactly systematic of what happens in an economic downturn like this. He hoped that Council did not think they were asking for raises. They have frozen their step increases for the last two years in an effort to work harmoniously with the City. They have offered to take furlough days. But that has not been enough and now they are being told that there would be health insurance increases. He said there are times to look at this, but now is not the time. He felt that Council understands the problem, but he didn't want anything else to get lost in translation. They are not asking for anything new. They are willing to give back. It is up to Council to determine what happens next. He asked that they find somewhere else to balance the budget.

Mr. Heady asked is there a verifiable increase in the crime rate in the City of Vero Beach.

Mr. Skidero felt that if they spoke with the 20 some odd businesses that have been burglarized in the past two weeks they would say there is. Nationally, they are seeing these types of economic crimes taking place more often.

Mr. Heady said that if there is a variable increase in the crime rate in the City, as a Councilmember, he would like to know about it and have some documentation on it.

Mr. Skidero said that he would work with Police Chief Don Dappen and get those number to Council.

Mr. Heady said that what he has heard is that they (Police Officers) were not asking for increases, that they are willing to take furlough days so the bottom line is the decrease in the Officers' take home pay. The only issue that they were concerned with is the increase in the health insurance plan.

Mr. Skidero said it was his understanding that that is the main stumbling block.

Mr. Heady asked Mr. Skider what is the increase per employee in the health insurance plan that they are being asked to absorb.

Mr. Skidero answered a 35% increase per person.

Mr. Heady asked what is that in dollars.

Ms. Barbara Morey, Risk Manager, reported that there are three tiers employees get to choose from. The base plan is not as big a plan and does not cover as fully as what is available now and is a decrease to employees.

Mr. Heady asked so there is an opportunity for employees to have a decrease.

Ms. Morey answered yes. She then went over each plan with the Council. She explained that the base plan would be a decrease of \$50.28, the middle plan would have an increase for a full family of \$42.58 per month and the high plan, which is what they have now, would be an increase of \$181.88.

Mr. Heady said if an employee of the Police Department is on a family plan, they are being asked to keep their raises in check, to take furlough days, and in addition to no raise and decrease in pay, they are being asked to increase their expense by \$181.00.

Ms. Morey explained that it is not just the Police Officers, it is all the employees.

Mr. Heady said as a Councilmember, he is not giving up a raise and he is not taking furlough days. He said that the public watches these meetings and wants to know what they are talking about. He asked what is the average salary for a Police Officer.

Mr. Robert Anderson, Human Resources Director, stated that the minimum salary for Police Officers \$37,900 and the average salary is about \$54,000.

Mayor Sawnick said that Council knows this is a serious matter and would take their concerns into consideration.

Mr. White asked when is the next negotiation meeting.

Mr. Anderson reported that the full next Teamster's Negotiation meeting will be held tomorrow morning. They have narrowed their (the Teamsters') issue down to the increase to the retirement plan. The Teamster's are willing to accept the change in the health insurance. The next meeting with the Police Benevolent Association (PBA) will be held on Thursday at 2:00 p.m.

Mr. Heady asked did the Teamsters receive any increase in pay.

Mr. Anderson answered no.

Mr. Heady said the Teamsters are similarly situated with Police Officers in that they are not getting increase in pay and they have tentively agreed to the increase in health insurance, but there is still a question with them in respect to the pension plan.

Mrs. Tracy Carroll, Live Oak Road, wanted to bring to their attention something that happened earlier in tonight's meeting. The City Council denied to second Mr. Heady's agenda items and one of those items was something new that he was trying to bring to the

City. The issue was to bring a nonbinding referendum on the November ballot to allow the voters in this community to let Council know if they want to sell the electric utility. Mr. Heady couldn't get a second to his motion and therefore he was not allowed to put that to a vote. Four men on this Council decided that they did not want to know what the voters cared about concerning the electrical issue. They decided that they do not care what the voters want to say on this issue. Over 900 people have signed petitions that they want this on the ballot. She then read some of the names on the petition. There are 900 voters who have already said that they care, but Council said no.

Mayor Sawnick explained that the items were not put on the agenda because there was no backup provided.

Mr. Heady said that was absolutely not true.

Mr. White stated that the City was currently in talks with FP&L about purchasing the City's utilities. Council is trying to do what the voters want as a governing body. He took offense that it was stated that Council does not care because they do.

Mr. Heady said the allegation by the citizen that they (Council) does not care is accurate. If they cared what the voters wanted then they would entertain this discussion. The fact that they are in discussions with FP&L makes it more important that they have discussion between the Councilmembers as to whether or not they want to listen to the voters in a straw ballot. The idea that he was going to present was to put an initiative on the ballot and see if the voters want to sell the Power Plant at any price. If the majority of the voters say that they don't care what FP&L has to offer that they don't want to sell the Power Plant. He felt that as Councilmembers, they have the obligation to listen to the voters. The only way they are going to know is to open it up to the voters in a ballot vote. His suggestion was going to be that they discuss a ballot initiative for a nonbinding vote. There was no way he could put on the agenda what is going to be discussed on that item. He asked how could he have adequate backup on a potential discussion that may or may not happen. He felt that Mrs. Carroll was absolutely right and they should reconsider putting that on the ballot. He made a motion that Council make a reconsideration of that and have a discussion between the Councilmembers at this meeting as to whether or not they want to put on the ballot in November, a nonbinding referendum and ask the voters whether or not they have any interest in selling the electric utility.

Mayor Sawnick stated that now is not the time to make a motion. If Mr. Heady wrote everything down that he just stated, that would be adequate backup for discussion at the next Council meeting.

Mr. Heady asked that the City Clerk type his previous statements verbatim to be placed on the next Council agenda. He said that this was already approved by the Mayor (please see attached).

Ms. Marjorie Manicosy, (spelling may be incorrect) 8831 Lakeside Circle, was present to advocate the passage of the Ordinance on dog-friendly dining. She asked Council to give restaurants who would like to do this the opportunity to do it.

Mr. Lee Olson, General Manager Waldo's Restaurant, introduced himself to Council.

Mr. Charles Vitunac, City Attorney, stated that this matter is on the agenda under Public Hearings. He explained to Mr. Olson that he could wait and make his comments at that time if he chooses.

Mr. Olson said that he would wait until then to make his comments.

Mr. Daige requested to speak before Public Comments is closed.

Mrs. Linda Hillman, 2315 18th Avenue, had a few questions for Mr. Heady. She asked how much money does the Power Plant put into the General Fund.

Mr. Heady answered approximately \$6,000,000.

Mrs. Hillman asked Mr. Heady, as a proponent to sell the Plant, plan on putting that money back without raising taxes and lowering services.

Mr. Heady said Mrs. Hillman was absolutely incorrect in her characterization of the question. She stated that he was a proponent of the sale. He said that nothing could be further from the truth. He is a proponent of putting all the facts before the City Council, of asking the taxpayers, the citizens, who own the Plant the opportunity to tell Council how it is that they want to represent us. He said that he has tried month after month to have a financial analysis by Dr. Faherty and Mr. Glen Heran put in front of Council. In that analysis there are many scenarios with different sale figures that are represented that shows what would happen to the taxes, what would happen to the General Fund, what would happen to the expenses, and what would happen to the income. That presentation has been given to Indian River Shores and the Indian River County Commission. The stakeholders, the City of Vero Beach residents, have been denied the opportunity to see that presentation because this Council has refused to allow that on the agenda time after time. The presentation was also given to FP&L. Mr. Glen Heran, Dr. Stephen Faherty and Mr. John Lee, Acting Electric Utilities Director, met with FP&L. This was not in any way a visit to negotiate any kind of sale, but rather an opportunity for them to speak with FP&L to make a determination as to whether or not their financial analysis was correct and to see if FP&L saw any holes in their analysis. Some of the scenarios show that the General Fund would not need any transfer because they would have enough debt reduction and residual amount left from the sale that just the interest would supply the needs for the General Fund. In addition, the General Fund would fewer needs on the expense side. If they (City Council) are going to make intelligent decisions then they need all of the facts. If Dr. Faherty and Mr. Heran have an incorrect analysis, the City staff could probably make the necessary corrections.

Mrs. Hillman said from what she understood Dr. Faherty and Mr. Heran to say is that \$100,000,000 would be a good price for the Power Plant. Mr. Heady just stated that he would sell it at any price.

Mr. Heady said that if she replayed this meeting, he did not think that she would have heard him ever saying that. He said not just now or any other time, did he say that he would sell at any price.

Mrs. Hillman said as far as she understands, there is a large debt to the Power Plant that has to be paid. Mr. Heady is saying that services would have to be cut and they would have to be cut because the General Fund would no longer be taking in money.

Mr. Heady did not think that he said services would be cut.

Mrs. Hillman said that Mr. Ligorì (spelling may be incorrect) wrote an article in the newspaper that stated Mr. Daige represents 13,000 voters in the City. She said there are 13,000 voters, but 18,000 City residents. He, as well as every Councilmember, represents every person whether they vote or not. She said that she pays in taxes \$461 each year to the County's General Fund and she only paid \$290 to the City of Vero Beach this year. She also pays \$257 each year for emergency services, but if she was to need an ambulance, she would have to pay for it. She said that the County is getting a lot of her money. She asked Mr. Lee to look at her utility bill for July 2009 verses July 2010. She reported that she only paid \$21.00 more this year than last year. She felt that it was ridiculous that people are considering selling the Power Plant because of \$21.00 a year. She said that the City helped pay for the underground utilities for County residents. She did not have underground utilities in her neighborhood. She felt that the County residents were getting more privileges than the City residents. She felt that this should go on the November ballot because she felt that there were people in the City who need to step up to the plate and vote. They need to understand what the County is trying to do to this City. They would lose a lot of services.

Mr. Heady said the question of the cost burying electric lines came up a couple of meetings ago with respect specifically to Grand Harbor. It was his understanding that the developers put the conduits in and the City utilities pulled the wires and it was not an expense to the City for burying the utilities. It was an expense to the developer.

Mr. Daige said Mr. Heady was correct that when developers come in to put a new development online, it is law that they do the underground utilities. The undergrounding program was started in Indian River Shores and a lot of that was done and the system paid for it, which was \$100 million dollars plus. He noted that the program has been discontinued.

Dr. Valerie Piel, (spelling may be incorrect) 1861 Sandpiper Road. She stated that she has been a resident and Veterinarian here for 18 years. She appreciated the opportunity to speak about doggy dining. She said that she was very pro for the establishments that

wish to have it. She said that she has enjoyed going to Greenhouse Café with her puppies.

Ms. Barbara Lambing, 34 Plantation Drive, stated that this is the third time she has come before Council. Last month she proposed a fundraising budget for the City to offset some of their expenses. She said that they were in a terrible gas situation. There are a lot of gas stations closing nationwide. She suggested saltwater as a substitute source of energy. She asked Council to consider a failsafe policy so that if everything else fails a solar substation and a streetcar project on Route 60 to the beach so that people could get back and forth from work.

Mr. Jason Causdra, (spelling may be incorrect) 1406 35th Avenue, stated that he was concerned with Council's decision to outsource the search for a City Manager. He felt that this Council was equipped to do the search. He felt that Mr. Gabbard would be instrumental in seeking his successor. Council was elected to do these jobs instead of looking to someone else who does not have a feel to the community. Council has a feel for the local community and the businesses that are here and the type of person who would be able to manage the City effectively. He hoped that they were not buying a \$20,000 CYA policy in case something goes wrong with the City Manager. Spending public money and sending someone to do a job that Council and staff can do does not make sense. He hoped that Council would reverse their decision and begin searching locally and then move outward.

Mr. Heady went to the public podium and requested to speak.

Mayor Sawnick asked Mr. Heady to return to his seat.

Mr. Heady requested to speak as a citizen.

Mayor Sawnick said that as a Councilmember, Mr. Heady should be in his seat listening to the public. He did not think this was appropriate at this point and stated that they were not going to discuss this.

Mr. Heady said that he was at the citizen podium.

Mayor Sawnick called Mr. Heady out of order. He said that Mr. Heady was not following the rules. He then read Section 2-53(2)(a) of the Code. He stated that Mr. Heady must follow directions of the presiding officer.

Mr. Heady said that he was not at the podium as a Councilmember. He was there as a citizen of this community.

Mayor Sawnick called for a five-minute break at 6:55 p.m.

Mayor Sawnick called the meeting back to order and asked the City Clerk to let the record show that Mr. Heady was called out of order multiple times by the presiding officer and that he failed to follow directions of the presiding officer.

Mr. Heady stated to let the record show that he left podium and went down to the citizen podium to speak as a citizen and reminded the Mayor of that on several occasions. That the City Council has decided they could shut him up as a Councilmember, but he has not given up his rights as a citizen. He was at the citizen podium speaking under Public Comment at which point the public is allowed to speak and he was denied the opportunity.

Mr. Daige referred to the citizen who spoke on an electric issue with a referendum. He said that the City received a letter from the Supervisor of Elections and asked the City Clerk to read the letter into the record (on file in the City Clerk's office).

Mrs. Vock reported that the City received the letter on July 27, 2010. She then read the letter into the record.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – July 20, 2010**
- 2. Special Call City Council Minutes – July 15, 2010**
- 3. Special Call City Council Minutes – July 20, 2010**
- 4. Monthly Capital Projects Status Reports**
- 5. Bid No. 370-09/PW – Relay Testing Service Contract for the T&D Department**

Mr. White made a motion to adopt the Consent Agenda. Mr. Daige seconded the motion and it passed unanimously.

At this time, the Council discussed item 7-A) Discussion and Comments Regarding Moratorium on Opening of Pain Management Clinic.

Mr. Tim McGarry, Planning and Development Director, stated that the reason this was before Council tonight is because an issue came up regarding the City's moratorium on pain management clinics. This is not an issue that could be addressed by staff. It needs to be addressed by the City Council. He said the intent of the moratorium is to prevent the spread of "pill mills" in the City of Vero Beach, but because the Ordinance is so broad it has unintentional consequences. He said that Dr. Khalaf submitted an application and staff believes that Dr. Khalaf's situation might fall under the unintended consequences of the Ordinance. The wording of the moratorium states that Dr. Khalaf must certify under pain management, which would preclude him from moving forward. He said that staff would be working with the County on permanent regulations that would take a few months. Therefore, staff felt that it would be appropriate for Dr. Khalaf to speak with Council to see if he could get some relief.

Mayor Sawnick explained that Council did pass a moratorium on pain clinics in the City.

Dr. Majid Khalaf, 5249 3rd Lane, said that he was an Intervention Pain Doctor. He said that he does not really dispense pain medication. The main part of his clinic is treating pain, not giving medication. He said that he has had two offices, one in Sebastian and one in Ft. Pierce, for the past five years. He has a good practice, good reputation and good clientele. He said the only thing he was trying to do was to combine both offices and open one in Vero Beach. He has been trying to do this for the past year and a half and now they found out there is a moratorium. He said that this was not a new office, just a new location. He again stated that he does not dispense medication, he is not a “pill mill.”

Mayor Sawnick asked with the moratorium, is Council allowed to make special exceptions.

Mr. Vitunac said the construction of the office building was going to take several months and might not be ready before the moratorium Ordinance expires. They would like permission to allow Dr. Khalaf to begin the physical work on the building reconstruction while they amend the Ordinance to make it legal. Dr. Khalaf would not open his clinic until it is legal.

Mr. McGarry suggested that they take moratorium Ordinance and make some minor modifications to it and at the same time, allow Dr. Khalaf to submit his site plan. He noted that they would not approve the site plan until the Ordinance has been amended to allow him to establish his place.

Mr. Heady asked why is there prohibition on this when he (Dr. Khalaf) is a medical Doctor who would be building medical offices.

Mr. Vitunac explained that if the Doctor called himself a pain clinic then he falls under the State definition.

Mr. Heady said then the change that may need to happen is not the City changing their Ordinance, but the Doctor removing the word “pain” from the application.

Mr. Vitunac said that was discussed with Dr. Khalaf, but he did not want to be seen as not being honest.

Mr. Daige asked wouldn't that be something that the State would regulate.

Mr. Vitunac felt that if they took the words “pain clinic” out and said “medical clinic” then they could give him approval.

Mr. McGarry said Dr. Khalaf has to certify with the State even if he took out “pain clinic.”

Mr. Heady asked why. He said that Dr. Khalaf is a medical doctor.

Mr. McGarry said that the City did a blanket no more “pain clinics.” He said that the State does have exceptions, but it does not cover private clinics. He pointed out that they were hoping the new State regulations would come to play by October 1st, but they have been doing further work in Palm Beach County.

Mr. Daige said this site is located at 1936 32nd Avenue. He asked if he was correct that they were before the Planning and Zoning Board several months ago for site plan approval to build something there.

Mr. McGarry said they had a neighborhood meeting and then they went before the Architectural Review Commission. They submitted an application, but their contractor did not respond to their comments. Under the City’s Code after 30 days it is abandoned, which is what happened. He said that they could build a building, but they would be taking a risk that they can’t occupy the building.

Mr. Daige hoped that Council would hold off pushing this through tonight. He said that this building backs right up to a very nice residential area and the neighborhood has not been notified. He said that he would rather see this air out and not change the Ordinance right now. He would rather have staff work with the County on this and come up with proper wording to protect our community. He felt that if Council pushes this through, they were going to get a lot of negative feedback from the community. He said that he was not in favor of the current clinic that was opened. Council did not know that was happening and he would not support this whatsoever at this time.

Mr. Heady asked Dr. Khalaf if he was allowed to build, would he dispense any medication at all.

Dr. Khalaf said that he has to dispense some medication, but his main stream of pain management is intervention. He does a lot of procedures to help patients with pain.

Mr. Heady asked Dr. Khalaf if he accepts cash.

Dr. Khalaf answered yes.

Mr. Heady asked Dr. Khalaf if he accepts credit cards, personal checks and insurance.

Dr. Khalaf answered yes.

Mr. White asked Dr. Khalaf if he would be writing prescriptions.

Dr. Khalaf answered yes. He said that he does not dispense medication from his office.

Mr. Heady said that pain clinics dispense from their location and if Dr. Khalaf dispensed medication from his location then he would have a problem.

Mr. Abell felt that Council needed to give Dr. Khalaf some assurance that if he builds the building that he can operate out of it.

Mr. Daige felt that the way this item was on the agenda (under City Manager's Matters), it would only be fair to the surrounding neighborhoods that they should know about it. If they are going to push this through then they need to hear from the neighborhoods. He felt that they should at least wait until their next meeting.

Mr. White asked Mr. McGarry if this has gone before the Planning and Zoning Board.

Mr. McGarry answered no. He said that they did have a neighborhood meeting. He said that they would be bringing the change in the Ordinance back to Council at their next meeting and they probably would have a first reading and public hearing on it. He just needs to know if Council is amendable to that and to allow the Doctor to submit his site plan.

Mr. Daige did not have a problem with the site plan submittal.

Mr. White said if Council gives the okay to change the Ordinance, that there be no medication dispensed at the location.

Mayor Sawnick asked is the direction needed from Council to allow staff to clarify the Ordinance.

Mr. Daige asked if someone went to a clinic and the Doctor writes a prescription that could not be filled at a drug store, could they go to a pain clinic to get the prescription filled.

Mr. Gabbard said that any legitimate prescription has to be filled at a pharmacy.

Dr. Khalaf explained that interventional pain management is to help people so they don't have to go through surgery. There are some pain medications involved, which the patient would have to go to a pharmacy to get it filled. He said that he has a very good relationship with the pharmacy. The pharmacy would send him a list of all the patients who have multiple doctors who write them prescriptions. He also has a good relationship with the Police Department. They always have good communication on if a patient is abusing pain medication. He said that he actually tries to get people off of pain medication.

Mr. Daige asked Dr. Khalaf if he owns the property.

Dr. Khalaf answered yes.

Mr. Daige asked is the property for sale. He explained that he looked up the property today and found that it was listed for sale. He asked Dr. Khalaf if this goes through, would he stay.

Dr. Khalaf answered yes.

Mr. Daige said then therefore, he would take the property off the market.

Dr. Khalaf answered yes.

Mr. Daige asked Mr. Vitunac, by allowing this to go through and Council gives direction to move forward with the Ordinance, staff would look at the State Statute so everything is legal so there would not be any problems in the future. He said that they needed to make sure that if the property is sold in the future that a “pain clinic” would not be allowed. He wanted to make sure that they protect the City. They already got caught by having a pain clinic in the City and there are a lot of people who are not happy about it. He asked Mr. Vitunac is that clear.

Mr. Vitunac answered yes.

Mr. Heady asked Mr. Vitunac if Council was to entertain a conditional use, would that conditional use run with the land or strictly with his business.

Mr. Vitunac explained that conditional uses have to do with type of uses.

Mr. Heady said that the doctor could leave and whoever bought the property could operate it as a pain clinic.

Mr. Vitunac explained that if they have a valid use as a pain clinic and the property is sold, the new owner could have a pain clinic as long as they meet the City Code, County Code and State law.

Mr. Heady asked is there something that they could write that meets State requirements that would allow this Doctor to run a medical office in that facility without the possibility of him selling it and then having a pain clinic move in.

Mr. Vitunac answered no. He explained that whoever the purchase the property would have to comply with the law.

Mr. Daige felt that staff understood where he was coming from and they know what he does not want.

Mr. McGarry said that staff would do a minor amendment to the existing Ordinance, which would allow Dr. Khalaf to continue with his building. They would work on the final regulations with the County and would bring it back to Council at a future meeting.

Mr. Heady clarified that when he was discussing a moratorium on pain clinics, the kind of operation that he was talking about was an operation that dispenses medication from their facility. That they accept cash, they don't accept credit cards, checks or insurance and they are “pill mills.” That was the intent of the moratorium and he thought that was

clear at the time. He did not intend nor did he want this Ordinance to have any impact on a legitimate medical doctor. He said that Dr. Khalaf said that he is a medical doctor, which he (Mr. Heady) was not sure that he understood why the moratorium would impact him.

3. PUBLIC HEARINGS

- 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.

Mr. David Pusher, Police Officer and Chairman of the Police Pension Board, reported that they made a change in the language of the Ordinance in order to be compliant with the Internal Revenue Service.

Mayor Sawnick opened and closed the public hearing at 7:34 p.m. with no one wishing to be heard.

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

- B) **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. White said that there has been a lot of talk regarding this Ordinance. He felt that there was a misunderstanding. He said that when Greenhouse Café opened they made it doggy friendly. The Health Department told the owner that they cannot do this without this Ordinance passed. He explained that this Ordinance was not so every restaurant could have dogs. It is voluntary and they must have an outside patio, etc., if they want to

have doggie dining. He said that the City was doing this at the request of a citizen, taxpayer and business owner in town. He felt that it was good to have the rules on the books. He wanted to make sure that people understood that this was voluntary and they must comply with the Ordinance.

Mr. McGarry pointed out that if they do enact this Ordinance, the City is obligated to enforce it. He said that the City is also required to report complaints and enforcement issues to the State. The Planning and Zoning Board approved the Ordinance and requested that they add under Section 78.05 to prohibit the serving of food to dogs.

Mr. Heady asked Mrs. Forbes does the prohibition to serving dogs bother you.

Ms. Olsca Forbes (owner of Greenhouse Café) answered no.

Mayor Sawnick opened the Public Hearing.

Ms. Kim Conti, owner of Paw Prints of Vero Beach, said that she has about 2,000 clients and she was in favor of doggy dining. She said that everywhere they go has doggy dining, which is good for communities. She said that she also is a proponent of dog training. She was against serving food to dogs. She felt that the idea is to make this community more pet friendly.

Dr. Piel thought that one of the provisions of the Ordinance is that animals can be asked to leave. She read the State Ordinance and a pet cannot go into a restaurant to get to the outdoor facility. They must enter from the outside. They are not allowed on the tables, chairs, etc. If a server pets an animal they are required to use hand sanitizers.

Ms. Marjorie Manicosy said that she has been a widow for 15 years and it is a wonderful accompaniment to have a pet. She asked Council to please consider the passage of the Ordinance.

Mr. Lee Olsen, General Manager of Waldo's Restaurant, said that he has been in the restaurant industry for 35 years. He said that he is a dog lover, however he feels that if they are going to pass this law that they put on more stringent control. The employees should be educated, more so than a regular server. He said that there would be situations with dog leashes, people with walkers, etc. that is going to add to the liability issue. He understood that this is voluntary, but people need to keep in mind the lack of knowledge of the law. He said that Waldo's does not allow dogs. Dogs are not allowed on the beach or in City Parks. He felt that sanitary, safety and the health and well being of people should be looked at a little more closely. He said that he spoke to the Insurance Agent for Waldo's and he was told that they do not cover dog bites in their establishment. They have to take into consideration small children and that a dog could bite whether they are well trained or not. He said that small children or adults reaching down to pet a dog could get bitten. He felt that restaurant owners should have to carry an additional insurance policy that would cover dog bites.

Ms. Conti agreed with some of the points made by Mr. Olsen. She agreed with training staff and said that she could have one of her trainers educate staff. She felt that there were a lot of good things that could come out of this.

Mr. Kent Middleton, Whippoorwill Lane, said that he was in favor of doggie dining. He said that there are a lot of things that might happen, but there are many things that could happen in restaurants.

Ms. Pam Winaberg, (spelling may be incorrect) 421 10th Avenue, said that she owns three dogs and she would not take them to a restaurant only because she knows her dogs and they would not be able to do that. She felt that it should be the responsibility of the person who owns the dog to take the liability, not the restaurant owner. She felt that this would bring money to Vero Beach.

Mayor Sawnick closed the public hearing.

Mayor Sawnick made a motion to approve the Ordinance with the amendment under Section 78.05 that no food service shall be provided to dogs. Mr. Daige seconded the motion.

Mayor Sawnick said that he was in favor of this. He felt that it was clear that the business owners would have the option of doing this.

Mr. Heady asked are the application fees expected to cover the expense side of enforcement or would it be an expense to the taxpayers.

Mr. McGarry said the fees would cover the processing of the permit and the initial inspection. The City could bear the cost of enforcement unless there are Code Enforcement fines.

Mr. Heady asked is there an expense now for enforcing keeping dogs out of restaurants.

Mr. McGarry answered no.

Mr. Heady said enforcement would come into play if someone notified the City that there was a dog in a restaurant.

Mr. McGarry said that was correct.

Mr. Heady said it would be reasonable to expect that there would be very little, if any, enforcement expense.

Mr. McGarry did not think there would be that much expense.

Mr. Heady said it was stated in the Ordinance that dogs could be asked to leave.

Mr. McGarry said the property owner would have the right to throw out patrons and dogs.

Mr. Daige felt that all the public input received tonight was very positive, including Mr. Olsen. He said that this Ordinance gives the restaurant owner, if they choose, another tool to help them out in these economic times. He thanked Mrs. Forbes and her family for seeing this through.

The motion 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 Surfing, 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 on-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.

Mayor Sawnick opened and closed the Public Hearing at 7:58 p.m., with no one wishing to be heard.

Mayor Sawnick made a motion to approve the Ordinance. Mr. Abell seconded the motion and it passed 4-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. Abell yes and Mayor Sawnick yes. (Please note that Mr. White stepped away from the dais prior to the vote and was not present when this vote took place.)

- 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 “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; providing for an Effective Date.**

This Ordinance was pulled off of the agenda and will be reheard under Public Hearings at the October 5, 2010 City Council meeting.

- 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 both items 3-E) and 3-F) at the same time by title only.

Mr. McGarry reported that this is for the transmittal of the Ordinance to Department of Community Affairs (DCA) for their review and comments. It would then come back to Council for consideration of adoption. He noted that anyone who would like a letter or notification from DCA that they would need to sign the form located in the back of the Chambers.

Mayor Sawnick opened and closed the Public Hearing at 8:01 p.m., with no one wishing to be heard.

Mayor Sawnick questioned if they would need two motions.

Mr. Vitunac explained that Council would need to make one motion to send the Ordinance to Tallahassee with the attachments in 3E) and 3F).

Mayor Sawnick made a motion to send DCA items 3E) and 3F). Mr. White seconded the motion.

Mr. Daige referred to the change in level of service on A1A. He asked could this be done on other roads.

Mr. McGarry answered yes. He explained that this is a mechanism to allow more capacity on A1A.

Mr. Daige asked would this open the door for other problems to where someone could downgrade roads to do buildings, etc.

Mr. McGarry explained that they would have to have good reasons. He said that they did an analysis on this and unless they wanted to get into development rights they have to provide some opportunity. He said that it could happen and therefore they have to be very careful when they do this.

Mr. Daige said that staff did a very in-depth analysis of A1A and this was the best way to go.

Mr. Heady said that if this was going to come down in one vote then he would have to vote against it. He explained that it was not because he was against either item, but he felt that combining two very different items in one vote was wrong.

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

- 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.**

Mayor Sawnick read both items 3-E) and 3-F) at the same time by title only.

Mr. White noted that if he was present for the vote on item 3C), he would have voted in favor of the Ordinance.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation, to Rehabilitate Runway 11L-29R to include Taxiway F and Connectors and Lighting (FDOT #416303-1-94-01)**

Mayor Sawnick read the Resolution by title only.

Mr. Eric Menger, Airport Director, reported that this Resolution would authorize the Mayor and City Manager to accept a change in an already approved State grant for a project that is currently underway. He noted that this project was about \$500,000 under budget and in order to keep those dollars, they would like to use those dollars to change the taxiway lighting. The State agreed to allow this as long as they stay within the existing grant amount.

Mr. White asked if they were going to put in LED lights on the runways, would that mean that they would have night flights.

Mr. Menger said that they already have night flights. He noted that the Airport is open 24 hours a day. When the Tower closes the Airport then goes to an automatic lighting system.

Mr. Daige asked if student pilots wanted to train late into the evening, they can.

Mr. Menger said that was correct. He said that they were not changing the lighting, they were changing the fixtures to LED, which are more cost effective.

Mr. Daige said the purpose of changing the light fixtures is for economics. He asked would a brighter light increase night flights.

Mr. Menger explained that the lighting would not be brighter. It is just that the type of fixture is different.

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

- B) A Resolution authorizing the Mayor of the City of Vero Beach to accept a Grant Offer from the Federal Aviation Administration to Fund an Airport Improvement Project entitled: AIP Project No. 3-12-0083-034-201 Rehabilitate Taxiway "C" and a Section of Runway 11R/29L.**

Mayor Sawnick read the Resolution by title only.

Mr. Menger explained that the City received a Federal grant from the FAA on August 6, 2010 for a project that was approved in the budget. They have not brought the award of contract to Council. At this point, staff is asking Council to accept the grant. This grant would cover about 95% of the project and the State and Airport would cover the other five percent.

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

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, abandoning all of that 7.5 foot wide alley lying North of Lots 1 through 12, between 21st Street and 22nd Street, of Conn Addition Subdivision.**

Mayor Sawnick read the Ordinance by title only.

Mr. Monte Falls, Public Work's Director, reported that this Ordinance is for the abandonment of a 7.5 foot wide alley. He noted that this alley has never been used and would not be used for alley purposes other than utility purposes within the alley. All the utility providers have reviewed the application and agreed to the abandonment subject to a retention of an easement for utilities. He said that staff is recommending approval.

Mr. White asked if they abandon the right-of-way, how would the City get their trucks in to repair or replace the electric wires overhead.

Mr. Randall McCamish, Director of Transmission and Distribution, reported that most of their lines do not have a right-of-way, they have easements and that is what this would be.

Mr. Daige said in giving up the right-of-way, would the utility workers have enough space to get themselves and their vehicles back there. He said that they would be giving up 7.5 feet. If they approve this and the City needs to get trucks or personnel back there and they do damage, does the City have to fix it.

Mr. Falls answered yes.

Mr. Vitunac explained that there is a right-of-way, which means that the public can travel on it. He said that they would be giving up the public's right-of-way for a public easement. Therefore, the only thing the City would be giving up is allowing the public to travel this easement.

Mr. White said that he spoke with Ms. Betty Reeves and she explained to him that the property owners were asking for this right-of-way. He said that she was present for tonight's meeting and asked her to relay the information that she gave him to Council.

Ms. Betty Reeves, 1840 Tarpon Lane, said that she purchased a small commercial building that is contiguous to Classic Car Wash. In doing paperwork she discovered there was a 7.5 landlocked alley behind Bill's Automotive and a portion of Classic Car Wash. She spoke with the property owners and asked them to join her in applying for the abandonment of the alley. The City entertained separate applicants and separate checks, with one application. She said that the property is totally accessible to fire trucks, utility trucks, police, etc.

Mayor Sawnick made a motion to approve the Resolution on first reading and set the Public Hearing for September 7, 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.

B) A Resolution of the City of Vero Beach, Florida, adopting a Revised Schedule of Fees for Use of Recreation Department Facilities and for Participation in Recreation Programs; providing for an Effective Date.

Mayor Sawnick read the Resolution by title only.

Mr. Rob Slezak, Recreation Director, reported that this Resolution was for the rates and fees that were discussed during the Budget Hearings.

Mayor Sawnick made a motion to approve the Resolution on first reading and set the Public Hearing for September 7, 2010. Mr. Daige seconded the motion.

Mr. Abell asked Mr. Slezak why they didn't have the same rate for all ages.

Mr. Slezak explained that the people who are 55 and older tend to have a tighter budget and they wanted to give them a little bit of a break.

Mr. White said there was only a five dollar difference between County and City residents.

The motion 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, requested by Indian River Plaza, LLC, to amend the Official Zoning Map by Changing the Zoning Designation from B-1, Planned Business Commercial District to C-1, Highway Oriented Commercial District for the property located generally South of the Southwest Corner of the Intersection of US Highway No. 1 and 16th Place, in the City of Vero Beach, including all of Tracts I and II of Indian River Plaza, according to the Plat recorded in Plat Book 10, Page 73, of the Public Records of Indian River County, Florida, containing 16.343 acres, more or less; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry explained that this Ordinance would be a Quasi-Judicial hearing. He recommended approving the Public Hearing date of September 7, 2010.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the Public Hearing for September 7, 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.

Council took a five-minute break at 8:22 p.m.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

- A) **Discussion and Comments Regarding Moratorium on Opening of Pain Management Clinic**

This item was discussed earlier in the meeting.

- B) **Property, Casualty and Workers' Compensation Insurance – 2010-2011 Renewal Evaluation**

Ms. Barbara Morey, Risk Manager, reported that this item was placed on tonight's agenda in order to give Council an update.

Mr. Kurt Gehring, of the Gehring Group, said there was a prior handout given to Council that had a couple of coverages that were at zero, which made the savings look higher (on

file in the City Clerk's office). He then gave Council a handout of the actual coverages that they have in place. He briefly went through the hand out (please see attached). He said that he needed to know from Council if they wanted them to bring the final numbers back to Council or if they wanted to give them direction to bind the property. Also, they would like authorization from Council if they receive all programs not to exceed five percent or under to bind those coverages. He then explained the 2010-2011 Property Deductive Analysis Evaluation (part of the backup material). He recommended that the City takes the 90% coinsurance policy. He stated that this was an excellent way to reduce the premiums.

Mayor Sawnick asked are other cities around the State doing this.

Mr. Gehring answered yes.

Mr. White asked how long is the City covered under their current plan.

Mr. Gehring answered until October.

Mr. White said the Florida Municipal Insurance Trust would be meeting on September 24, 2010. He asked would Mr. Gehring need an answer prior to that meeting.

Mr. Gehring said that they have time.

Mr. White said that he liked the blanket coverage.

Mr. Daige agreed with Mr. White.

Mr. Abell asked if he was correct that they were looking for binding coverage and then looking to suggest 90%.

Mr. Gehring said that was correct. He said that whether Council wants them to bring it back or give them a cap of five percent on the other coverages and if they came in over the five percent they would advise Council.

Ms. Morey cautioned Council if they go with 90%, which gives the City a little excess money, that they be very careful because the City was currently in negotiations with two unions. If they have to delay the health insurance changes, which would cost about \$50,000 to \$80,000 a month and this will help cover that. She did not want Council to think that there would be extra money to be spent.

Mr. Gehring suggested that Council make a motion on three items, which were to bind the actual coverage in place, not to exceed five percent on the pending coverages and if over five percent that they bring it back to Council, and to change the property to the 90% coinsurance program with the blanket coverage.

Mr. White made a motion to bind the current coverage, to go with the five percent cap on everything pending and to change from 100% to 90% with blanket coverage. Mr. Abell seconded the motion and it passed unanimously.

C) Utility Management Consulting Services

Mr. Rob Bolton, Water and Sewer Director, reported that before Council was a proposal from GAI Consultants (on file in the City Clerk's office). He said that Indian River Shores has selected and approved a work authorization for GAI Consultants to look at an evaluation of their system and to provide opportunities for either the City of Vero Beach or Indian River County to serve them at the expiration of the utility franchise areas in 2016. He stated that GAI would appraise what Indian River Shores owns and then there would be Interlocal agreements supplied by GAI through Indian River Shores to look for the City to continue to serve them or for the County taking over that area as a service area. This work authorization in front of Council tonight was for \$49,000 to handle all the appraisals and documentations and \$35,000 for legal fees. However, there could be items that the City Attorney's office could do.

Mr. White asked if GAI would also be working for the County.

Mr. Bolton answered no. He noted that GAI would be representing Indian River Shores first. With that, they would represent Indian River Shores in the Interlocal Agreements that they would be providing to both the City and County and then they would take the information from both parties and make their recommendation to Indian River Shores. GAI would represent the City in the appraisal of the South Barrier Island, the inter-connects, etc.

Mr. White asked would there be a conflict because GAI would be working with both the City and with Indian River Shores.

Mr. Bolton said GAI would not be appraising the City's property, but documenting it.

Mr. White asked Mr. Bolton if he felt there could be a conflict having the same company working with Indian River Shores and working with the City.

Mr. Bolton answered no, because they would only be dealing with the documentation. The City Attorney and the outside legal firm would be reviewing this.

Mr. Vitunac said Indian River Shores' franchise is a little different because it says when the franchise expires the Town of Indian River Shores has title to all the lines. The County's franchise does not state that.

Mayor Sawnick asked Mr. Bolton if it was his personal opinion that there is no conflict.

Mr. Bolton said in his professional opinion there is not a conflict. Indian River Shores was made aware that GAI would possibly be working for the City of Vero Beach. He felt

that this was a very clean way of doing things. He said that it would save the City and Indian River Shores money.

Mr. Gabbard said that they have had some lengthy discussions with GAI and he felt very comfortable that there would not be a conflict. They are very competent, they are a good organization and he felt that they would do the City right.

Mr. White just wanted to make sure that the City is covered.

Mr. Gabbard said that staff would watch this closely.

Mayor Sawnick made a motion to accept the Work Authorization. Mr. White seconded the motion.

Mr. Daige asked was this firm the top firm of the CCNAC.

Mr. Bolton answered yes.

Mr. Daige said that he sat in on those meetings (CCNAC) and he has spoken with Mr. Bolton regarding the utility system. This firm is very well known throughout the State of Florida. He did not think that they needed to worry.

Mr. White agreed that they were a good firm.

Mr. Daige said that GAI has worked with two entities before. They don't take sides, they just tell it like it is.

The motion passed unanimously.

D) Award of Bid No. 310-10/CSS – Pebble Quicklime Annual Supply Contract

Mr. Bolton stated that in front of Council tonight were the results of the bid for quicklime. He reported that the cost was \$242 per ton and they estimate about 1,500 tons each year, which would cost about \$364,000.

Mr. White asked is this done every year.

Mr. Bolton said that in the past they have tried to piggy back with other cities in order to keep the cost down. This year there was not anyone who they could piggyback with.

Mr. White made a motion to approve the Award of Bid No. 310-10/CSS – Pebble Quicklime Annual Supply Contract. Mr. Daige seconded the motion and it passed unanimously.

E) Renewal of Bid No. 240/09/JV – Annual Street and Parking Lot Resurfacing Program Annual Contract

Mr. Falls reported that this is the renewal of a contract with Rancher Construction Industries for the annual resurfacing. He stated that staff is asking for a one year renewal of the contract. Once approved they would take the street rating system and do the worst streets first on the paving list.

Mr. White made a motion to approve the Renewal of Bid No. 240/09/JV – Annual Street and Parking Lot resurfacing Program Annual Contract. Mr. Abell seconded the motion.

Mr. Daige requested a copy of the street study.

Mr. Falls said that he would give a copy to the Council.

The motion passed unanimously.

F) Award of Bid No. 270-10/JV – Disaster Debris Removal Contract

Mr. Falls reported that received bids from 17 vendors and staff is recommending approval of a primary and secondary contractor. He explained that the reason they do this is in the event the primary contractor could not get here they would have a backup. They analyzed this with three types of events and these two contractors were the low bidders on all three events.

Mr. White said that in 2004 the City did not have contract. He stated that after the hurricanes hit he, as Mayor, had to sign a contract without Council approval in order to start the cleanup process. He noted that the contract was ratified afterwards. Therefore, he felt that this was important to have in place.

Mr. White made a motion to approve Award of Bid No. 270-10/JV – Disaster Debris Removal Contract. Mr. Abell seconded the motion and it passed unanimously.

G) Electric Utility Discussion – John Lee

Mr. John Lee, Acting Electric Utilities Director, stated that he heard the term tonight “the sale of the Plant.” He explained that the City has a distribution system, transmission system and the Power Plant. He then reported that he has been involved in three different meetings with FP&L and/or OUC over the last seven business days. On August 9, 2010 Dr. Faherty, Glen Heran and himself met with FP&L at FP&L Headquarters. He reported that there were four representatives from FP&L present for this meeting. Dr. Faherty gave him a copy of what he called “talking points” (on file in the City Clerk’s office). He said that Mr. Heran presented FP&L with the model with everything from zero cost to \$100,000,000 cost and the implication through 20 connected spread sheets on how it would affect ad valorem taxes, etc. At the end of the presentation Mr. Heran asked the representatives of FP&L if they found any errors and he was told no. But, they also stated that there was a lot more to the sale of an electric utility than simple numbers, such as political considerations, contractual considerations, etc. Mr. Lee said that even

though they did not have any negative comments, they didn't endorse it either. The following day Mr. Jim Stevens, Mr. Randall McCamish, Mrs. Sue Hersey and himself met with eight representatives of OUC for an Operation Committee meeting. This meeting had nothing to do with the potential sale, but more with the review of the contract. The City had special concerns about what happened in January. He explained that because of the cold weather the City ran on oil, gas, they could have had the opportunity to sell to other systems, etc., and the City wanted to make sure that clearly flowed through the billing calculation. They also discussed the month of May because there were anomalies in costs. He explained that typically what happens in the spring is that they plan outages in the larger Power Plants, but there were some unplanned outages, which drove the prices up on some occasions and the City wanted to make sure that this was all accounted for. He then passed out to Council a list of all the topics covered during this meeting (on file in the City Clerk's office). He noted that this meeting went on for several hours and they settled all of their issues. He then reported that the City Manager and himself met with two representatives of OUC and three representatives of FP&L today. He said that FP&L had questions for OUC and because the relationship is between OUC and the City, City representatives needed to be in attendance. He reported that the basic question FP&L asked of OUC was would OUC be willing to look at the contract with the City of Vero Beach and see if there were any impediments or roadblocks to assigning the contract to FP&L as part of a possible sale of some or all of the system. Because the OUC contract is with the City of Vero Beach, that question was also something that the City had to agree to. He stated that OUC said that they would be happy to look at that, but there was no timeframe set on when that would happen. He reported that FP&L, OUC, Mr. Gabbard and himself agreed that the next step would be to set up a meeting with FMPA to ask a similar question of FMPA. That meeting is tentatively scheduled for Friday, August 27, 2010.

Mr. Daige noted for the record that the meeting with Mr. Lee, Dr. Faherty, Mr. Heran and FP&L was cleared by the City Manager. He also noted that the City Manager and his team (City staff) was given clear direction from the City Council a number of meetings ago to move forward with putting all options on the table and to work with FP&L. He felt that it was important to Mr. Heran and Dr. Faherty to be able to present their model to FP&L and they had that opportunity. He said that the City is very open. He stated that the Management team was given the okay by Council to allow OUC to speak with FP&L about the City's fuel rights with FMPA. He felt that they were moving in a positive direction and doing what they said they would do.

Mr. Lee reported that he was out of the office the Thursday and Friday before the meeting was scheduled for Monday (the meeting he attended with Mr. Heran and Dr. Faherty). He came in the office on Saturday and saw the email from FP&L and responded that he would attend. He then spoke with Mr. Gabbard first thing on Monday morning regarding the scheduled meeting for that afternoon.

Mr. Daige said that Mr. Lee was given permission from the City Manager to attend that meeting. The City is doing everything they can and the ball is in FP&L's court.

Mr. Lee noted that FP&L, OUC, and City staff were working well together.

Mr. Heady asked what is bad debt that the City writes off on the electric utility every year.

Mr. Lee answered it is typically between two and one half and three percent of total revenue.

Mr. Heady asked Mr. Lee what is the average bad debt of electric suppliers in the State of Florida.

Mr. Lee said it is typically between one and one half and two percent. The City is typically about one percent above that because historically the City Council has asked that they be as lenient as possible to their customers in making as many payments as they can. The simple truth is that a lot of customers would make a payment arrangement and for one reason or another they fail to make the payments, which then becomes a bad debt. The City holds that debt for seven years and if the customers come back to apply for service within that seven years they cannot receive service until that debt is paid. He noted that until Council tells him to be more aggressive, he would continue to be as cooperative as possible with the customers.

Mr. Heady asked when the bad debt is repaid, is there any accounting of that payment to offset the current year.

Mr. Lee answered yes.

Mr. Heady said then the bad debt (\$2.7 million dollars) in one year would include any payments.

Mr. Lee said that was correct.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

- A. Old Business**
- B. New Business**

- 1. Renaming 22nd Avenue between 14th and 15th Avenues in honor of Graham W. Stikelether, Jr. – Requested by Councilmember Tom White**

This item was pulled from today's agenda.

- 2. Discussion of Interim City Manager – Requested by Vice Mayor Sabin Abell**

Mayor Sawnick reported that during yesterday's Special Call meeting, Council discussed looking into the idea of using Range Riders or possibly doing an appointment in-house.

Mr. Abell felt that Council needed to be prepared to make an appointment of an Interim City Manager at their October 5, 2010 Council meeting.

Mr. White asked if they should contact the Range Riders to see if they have anyone who would be interested.

Mr. Gabbard explained that the Range Riders do not go out and seek people to sit in.

Mrs. Vock stated that they have a list of people who are currently active. She said that the Range Riders would be attending the Florida League of Cities Conference.

Mr. White suggested that they speak with the Range Riders during the Florida League of Cities Conference.

3. Discussion of letter addressed to Chairman Peter O'Bryan, County Commissioner dated July 27, 2010 – Requested by Councilmember Ken Daige

Mr. Daige asked the Mayor that any meeting dealing with economics that he consider having the entire Council present. He also asked that a Special Call meeting be scheduled for Council to discuss what they would like to see happen in the City and then they could discuss this with the County Commission as a whole.

Mayor Sawnick explained that every two months he meets with the other Mayors of Indian River County. He explained that he was on an informational search and that was the reason for this letter. He said that he spoke with the other Mayors and they felt that they did not want their Councils involved at this time.

Mr. White did not have a problem because the Mayor was only searching for information. He was not voting on something on behalf of the Council.

Mayor Sawnick said that he would keep Council informed on what is going on.

Mr. Daige asked the Mayor to think about having a Special Call meeting to discuss the economics of the City. He said that he had some ideas that he would be sending to the Council in the near future.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

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

Mayor Sawnick reported that he attended the Mayor's cleanup in July, the Mayor's meeting on August 3, 2010 where they discussed a possible meeting with the County Commission to see how the cities could help the County or how the County could help the cities, a meeting with the Mayors and the Chamber of Commerce to get information on what the Chamber is doing and how the cities could help, and he would be attending the Florida League of Cities Conference this week.

3. Comments

B. Vice Mayor Sabin Abell's Matters

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

Mr. Abell reported that he attended the National Night Out on August 3, 2010 and the Sports Village event last night.

3. Comments

C. Councilmember Tom White's Matters

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

No report given at this time.

3. Comments

D. Councilmember Brian Heady's Matters

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

Mr. Heady reported that he would be attending the Florida League of Cities Conference, which would cost the taxpayers' money.

3. Comments

- 1. FPL and public business in the public eye**
- 2. Liars, Cheats and Thieves**
- 3. Bad information = bad decisions**

These items were not discussed.

E. Councilmember Ken Daige's Matters

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

Mr. Daige read his Committee Report (please see attached).

3. Comments

11. ADJOURNMENT

Mayor Sawnick made a motion to adjourn tonight's meeting at 9:25 p.m. Mr. White seconded the motion and it passed unanimously.

/sp