

## JOINT UTILITIES / FINANCE COMMISSION MINUTES

Tuesday, January 10, 2017 – 9:00 a.m.

City Hall, Council Chambers, Vero Beach, Florida

**PRESENT: Finance Commission:** Chairman, Peter Gorry; Vice Chairman, Glen Brovont; Members: Randy Old, Ryan Bass, and Alternate Member #2, Victor DeMattia; **Utilities Commission:** Vice Chairman, Robert Auwaerter; Members: James Tonkel, Herb Whittall, John Smith, Mark Mucher, Alternate Member #1, George Baczynski, and Alternate Member #2, Judy Orcutt

**Finance Commission Excused Absences:** Kathryn Barton and Daniel Stump

**Utilities Commission Excused Absences:** Chuck Mechling

### 1. CALL TO ORDER

Mr. Auwaerter called the meeting to order at 9:00 a.m.

### 2. PUBLIC COMMENT

Mr. Russell Herman, Sebastian, said he is here today representing the Friends of the St. Sebastian River. He said their actions today will have a great impact on the Indian River Lagoon and the St. Sebastian River. A portion of the Lagoon has been declared an impaired body of water by the Department of Environmental Protection (DEP). He said that experts have determined that excessive amounts of nitrogen and phosphorus in the Lagoon must be reduced. He feels a Stormwater Utility is an equitable way to improve water quality. Grant funding is available to help pay for water quality improvement projects. However, City matching funds must be readily available. He asked them to please do their fair share to improve the quality of the Lagoon and the St. Sebastian River.

Mr. Mucher thinks that nobody is against the concept of a Stormwater management. To him, the only question is how to pay for it. There is the question of whether it comes on the electric bills, which people think are already too high, or on the tax bill, whether it be ad-valorem or non ad-valorem.

Mr. Gorry commented that if the Stormwater is to be done by property tax, \$9 million is a 20% increase over their current milage rate. He added that 27% of those who would be contributing under a fee basis, such as schools, churches, the Airport, who do not pay property taxes, would be contributing.

Mr. Mucher does not think it's a problem to collect non ad-valorem property taxes from tax-free entities. He said many schools, churches, and not-for-profits pay non ad-valorem property taxes. He thinks the tax-free entities are a problem if they go ad-valorem, but he thinks there may be some way around that.

### 3. STORMWATER UTILITY STUDY RATE STRUCTURE EVALUATION – COLLECTIVE WATER RESOURCES

Mr. Jim O'Connor, City Manager, wanted to preface this project before the presentation is made. He said the Lagoon has been a high priority of every City Council. It has been labeled as one of the priorities that they need to address. Whether they call it a tax or a fee, it is coming from the residents. He said

the way that the Stormwater Utility is designed is that everybody pays their perceived fair share, as equitably as it can be done. The other thing that it is doing is recognizing the impacts of impervious surfaces and a way of addressing that. They are trying to come up with a mechanism where if you impose the cost, then you pay for the cost. He said that administratively, it dedicates a revenue stream to address the issue. He explained the way the State law works, is if you have a Stormwater Utility, there are very limited parameters to what you can do with that money. He said it cannot be used to pave roads, for example. He said the Lagoon is the focal point, but it also addresses other Stormwater issues in their community.

Mr. Gorry pointed out that this only applies to the residents of the City of Vero Beach. It doesn't impact any residents from Indian River County or Indian River Shores (IRS). He said in terms of the funding of it, it clearly impacts their entire community.

Ms. Amelia Fontaine, with Collective Water Resources, said this presentation is to give them information on the rate structure design that they did and the results of that. She said she would be giving them a summary of the numbers, which is mostly based on parcel statistics and the engineering analysis that they've conducted. She went through the Power Point presentation (attached to original minutes). She went over the slides Stormwater Utility and Input Needed from Commissions. She went over Stormwater Utility Study Project, going over the work completed to date and the next steps. She reviewed each of the charts, Results Summary – Rate Structure Database, Results Summary by Category, and Results by Category.

Mr. Auwaerter asked what category would tax exempt institutions like a church fall under. Ms. Fontaine said they would be within institutional. She thinks with the non ad-valorem or the billing method, they would receive a bill.

Ms. Fontaine said there has been some on-going legislation with School Board properties to have the ability to bill those properties. She added that the majority of it would come from commercial and residential single families.

Mr. Mucher said there aren't that many School Board properties in the City anymore. He said when they first looked at this study, there was a School Board Administration Building in the City, which is now in the County. He asked if they adjusted for that. Ms. Fontaine answered that she believed so.

Ms. Fontaine went over the slide Billing Methods: Collection, showing the two different methods, non ad-valorem assessment and utility billing.

Mr. Gorry pointed out that there are many renters who pay their own utility bills. He said they are breaking this down into whether a property owner should pay or should it be the renter through the utility bill.

Ms. Fontaine said that whoever receives the utility bill would be billed. Mr. Gorry said his point is whether the property owner pays or the renter.

Mr. Tonkel asked if they have calculated the administrative costs to each of these approaches to collecting the fees. Ms. Fontaine said that she would be getting to that later in the presentation.

Ms. Fontaine talked about the slide Billing Methods: Non-Collection. She said that with the non ad-valorem assessment, they may not be able to collect from all government owned parcels due to the lack of enforcement mechanisms. She said as far as utility billing, they may not if they simply put it on the utility bill. They may not be able to collect from parcels that are not served by City utilities or have inactive meters. Also, there may be some government properties, but most of those, they would be able to bill.

Mr. Bass referred to the chart that showed City-owned properties at 17% of the total. He asked if there is a definition of what "some government properties" means. He asked if they have any kind of estimate of what percentage of properties that are government owned that they wouldn't be able to collect from. Ms. Fontaine answered that would probably be the School Board properties.

Mr. Bass asked what are potential government properties that they might not be able to collect from.

Ms. Fontaine said that there is a lack of enforcement mechanism on government properties because you can't put a lien on those properties to collect, so they may pay or they may not. She went through the chart for non ad-valorem assessment. She said in Institutional, most of that are other institutions that are not government properties, so they should be able to collect from them. She said that School Board properties and County properties they may not be able to collect from.

Mr. Tonkel asked what about the County. Ms. Fontaine said they may not be able to collect from them.

Mr. Mucher said those are all very small numbers and the City of Vero Beach (COVB) is at 17%, compared to a total of 6%-8% for the others. He thinks as long as the COVB is willing to pay, he doesn't think non-collection is going to be a very big problem.

Mr. Old asked if there is some experience with non-collection. Ms. Fontaine answered yes. Mr. Old asked if they just do not want to pay so they just don't pay. Ms. Fontaine said that happens some time. She referred to a report she has from the Florida Stormwater Association (FSA). She said a good percent of the time they are billing the government properties in the City. She said they are more likely to do it through the utility billing, because through the non ad-valorem approach, there is not an enforcement mechanism. She said the majority of municipalities go with the utility billing.

Mr. Old asked if there is a large non-collection problem. Ms. Fontaine answered that usually they pay.

Mr. Mucher asked what the enforcement method on the utility bills method is. He asked if their electric would get shut off. Ms. Cindy Lawson, Finance Director, said if the customer refuses to pay the other fees, the account would eventually go delinquent and they would eventually get shut off. Ms. Fontaine said that is their enforcement method.

Mr. Gorry asked what if someone has a septic and a well and therefore does not have City water. Ms. Fontaine said that may fall in the category of those without active meters. She was told there are none of those.

Ms. Fontaine went over the table Communities Nearby: Stormwater Utility. She said there are 165 local governments in the State of Florida that have a Stormwater Utility. She said in a recent survey by the FSA, they looked at the rate per Equivalent Residential Unit (ERU) and the reported ERU size. She said the \$5.00 Rate per ERU that they're looking at for Vero Beach is relatively modest in comparison to other Stormwater Utilities throughout Florida.

Mr. Gorry wanted to point out that there are some modular home communities in the City and the size of most of the modular homes are modest compared to the average of other houses. Ms. Fontaine said that is the reason why they use the ERU. She said equating it to square footage is not the best way to look at it, which is why they use the ERU. It's based on the median of the single family property impervious area.

Mr. Gorry reiterated that there are a number of homes, and not just modular homes, that are relatively modest in size.

Ms. Fontaine said that is why for single family residential, there are three (3) tiers. She said those properties with a smaller amount of impervious area are charged a fraction of an ERU.

Mr. Mucher questioned why Clearwater is six (6) times the rate that they propose, but Stuart is considerably less. Ms. Fontaine said that Clearwater is a larger municipality and a lot lower in most areas. She added that Stuart and some others have not been updated since the last report.

Mr. Smith said this table doesn't show how they were collected, whether by utility bills or by ad-valorem. Ms. Fontaine thinks that the majority were by utility billing. Mr. Smith said he would like to receive that information. Ms. Fontaine said that she would get that information for them.

Ms. Fontaine concluded the Power Point presentation, reviewing the table Remaining Study Expenses, which showed the costs for both methods. She pointed out there is about a \$3,000 difference between the non ad-valorem collection and the utility billing collection.

Mr. Old asked once this is setup, would there be an ongoing cost to doing this or is this something they can handle internally. Ms. Fontaine felt their staff would mostly be able to handle it unless there are some major issues.

Ms. Lawson said that it really depends on what method they choose. On the non ad-valorem side, they will need annual support from a consultant to prepare the rolls and the adoption of the rolls to send to the Tax Collector and to send the notices, etc... because property information changes every single year. They will also have an annual fee every year from the Tax Collector because you do have to enter into an agreement with them to administer and collect the fees. So there are probably more on-going costs with the non ad-valorem side. But even on the utility billing side, outside of this, they are going to have the one-time cost of modifying the billing system and maybe some ongoing work in that regards, as well

as some one-time fees for making the connections with the parcel. She said neither one is particularly easy to administer and each one is going to have some on-going costs. She said the real threshold questions are do they want the renter or property owner to pay and do they want their money upfront every year or to come in over time. Also, in either method, they've got non-collection issues. On the utility billing method, what are they going to do with vacant properties. On the non ad-valorem assessment, they can assess vacant properties and on the utility billing method, properties with no meter or no service, there is not an easy mechanism to bill them.

Mr. Tonkel asked Ms. Lawson if she agreed with the projected study expenses in the report. Ms. Lawson said that those are actually the study expenses that they have negotiated through a Request for Proposal (RFP). She is not sure whether this includes the establishment of the first years roll if they choose non ad-valorem.

Mr. Tonkel asked if the City administration has come to any conclusion about how they think this should be pursued.

Ms. Lawson said she has done it both ways and they both have their pros and cons. She thinks the biggest one that is really a policy decision is do they want owners to pay or tenants to pay. Either way, there is going to have to be some work that has to be done by her staff and either one is going to have some on-going costs. And in terms of non-collection, either one has that potential. She feels it comes down to their policy decision about the equitable distribution of costs.

Mr. Old asked if monthly income vs. annual income is a problem to her. Ms. Lawson said it is not really a problem. The funds are for projects that are on-going throughout the year so it shouldn't matter if they get it up front or throughout the year.

Mr. Mucher asked if they went with the utility method, which he is not in favor of, how they would handle a parcel with multiple meters. He felt that a condo would be a nightmare. Ms. Lawson said that is part of the difficulty on the utility billing side and something they (Collective Water Resources) alluded to. They will have to do the extra work to make that connection between that parcel-based analysis and the meters. She said there are situations where one parcel, such as Miracle Mile, may have multiple meters, and also situations where one meter serves multiple parcels.

Mr. O'Connor said that to him, utility billing is the easiest way once they get it set up. He said the thing he likes about it is that it's a collection issue. If they use non ad-valorem, trying to make the collection becomes another problem administratively and can be much more costly than on the utility bill. He said the question is which one is equitable and which one is not. Do they charge the tenant or do they not charge the tenant. He said that is a landlord issue and not a City issue and it would need to be a contractual agreement between the landlord and the tenant. He agreed the utility billing would be a nightmare setting up, but once it's setup, they have sort of control over it. And it gives them the ability to do the collection very quickly, as opposed to issues that have occurred around here where they have had people owing them money long term because they haven't been able to collect it.

Mr. Auwaerter asked if he has a sense of how much cost is going to be involved by going with the utility method and having to do the partitioning of properties.

Mr. O'Connor explained that they do that right now with things such as water bills. He added that in Fellsmere, it is done through the utility billing method.

Mr. Auwaerter asked if any change in the property would be incumbent upon the landlord or the tenant to make a case to their administration. Mr. O'Connor answered yes. He said they have the right to appeal and that process is involved in this.

Mr. Gorry said that is a good point about the appeal process. He said it is going to be crucial to be able to inform all those impacted so they fully understand.

Mr. O'Connor agreed. He said their goal is that before the first bill goes out, they need to have the appeal process setup. He noted they have appeals now. He said that in Fellsmere, the School Board does pay for the Stormwater utility, but they also get credits like everyone else who, for example, built a pond or manages their stormwater on site. And what they are proposing here would be that same mechanism. If you do things to manage your own stormwater on site, then you're going to get the credits and the reduction in those ERU charges.

Mr. Mucher brought up that ad-valorem taxes are tax-deductible and utility bills are not. He said they have been looking at it from a City standpoint and an administrative standpoint, but looking at it from the users' standpoint, what's best for the City might not be what's best for the residents of the City. Mr. O'Connor said that he looks at that differently. He said they represent the residents of the City, so if they can make something equitable and can make it immediate and can manage it, it's benefiting the residents. The other thing is that in commercial and industrial, expenses can be charged off, for example utilities. He said the average house in Vero Beach would be paying \$60 a year.

Ms. Lawson pointed out that non ad-valorem assessments are not technically tax-deductible. She pointed out one more compelling argument in favor of utility bills. She said that with non ad-valorem taxes, there are time frames and gates you have to hit and it's a one shot deal. She said for example, if they don't do it this summer, then there is no money for the next entire two fiscal years. She said with utility billing, once they're done and ready, they can start whenever they're ready.

Mr. DeMattia said that he has a small business background. He said basically they have a nitrogen and phosphorus problem, not a billing problem. The source of nitrogen and phosphorous in the City of Vero Beach includes about 36 million gallons a day coming from the north, main and south canals. He added that there are five (5) canals that come in to Vero Isles and Tarpon. He said the one that is one block away from him in Vero Isles drains the north side of Miracle Mile. He said literal pieces of garbage flow through there some time. He said market dumpsters typically ooze and restaurant dumpsters flow. He noted that the canals drain the entire County. He said a lot of the water that they would be processing would not be their water, but County water. Also, they have a lot of septic systems in the City of Vero Beach and the water coming from the septic system can be good or it can be disastrous. He said the nitrogen and phosphorous addition to the Lagoon could be largely attributed to septic systems. He

pointed out the City of Vero Beach works with homeowners to replace old septic systems, but many refuse to upgrade, which is harming the entire community.

Mr. DeMattia said rainfall run-off from Miracle Mile is about 2,500 gallons a day average and there is at least ten times that area across the town, which is 25,000 gallons a day. He said septic is 225,000 gallons a day. That is something that can't be allowed to continue. Everyone from Indian River County benefits from commercial. He said they can bill churches and schools, but they are only billing themselves. If they go to a strictly residential billing method, about 10,000 bills would go out. He feels they are going to spend a horrendous number of hours trying to figure out whose driveways have pavers, which are pervious, and whose have concrete, which is impervious. He added that every year, they would have to hire a consulting firm to clean up the mess because things have changed over the year. He said the benefit from their Stormwater Management System is to dewater the County and the City and treat all the effluent from commercial and residential. He thought that another option might be a sales tax on commercial.

Mr. Auwaerter asked if statutorily, they are allowed to add an additional sales tax. Ms. Lawson answered no. She explained they can't selectively ad-valorem tax people. She said that residential, with the utility billing method, is pretty straight forward because every residential property would be one (1) of the three (3) tiers in their billing system. She said commercial properties with the utility billing method would become a little more work to establish because of the meter issue. She said it is the non ad-valorem method where they have to have a consultant go through the tax roll every year because of things such as ownership changes.

Mrs. Orcutt commented that the City of Vero Beach has no responsibility for cleaning the County's water. She referred to the Base and Management Action Plan process, which started about ten years ago. She said the whole job of that was to calculate the amount of nitrogen and phosphorous that is in the Lagoon. She explained they also calculated the amount that needed to come out of the Lagoon to bring it back to a healthy level. The next step in that process was to divvy up that big amount of nitrogen and phosphorous that needed to be removed amongst all the people who were contributing. She said each separate stakeholder entity along the Lagoon had been given the specific amount of nitrogen and phosphorus that they are responsible for reducing. She reviewed the handout she provided, City of Vero Beach's Stormwater Utility Can Improve the Lagoon Water Quality (on file in the City Clerk's office).

Mr. Gorry asked about the other entities and how they are doing. Mrs. Orcutt said the County has implemented some huge projects to do stormwater cleanup in the canals and are coming very close to meeting their goals. She added that the City of Fellsmere is doing very well and also are coming very close to meeting their goals. She said the City of Sebastian is not doing quite as well.

Mr. Tonkel referred to her memo, which sets forth their goals. He asked if she has any empirical information related to how the other utilities that have been up and running have met their targets. He is trying to get some measurement for these 8 or 10 or 12 utilities in the surrounding area in terms of

their contribution or their actual results over whatever period of time they've been setup. Mrs. Orcutt said the entity that is held responsible is the City of Vero Beach and not the utility.

Ms. Fontaine said that many of the other municipalities, such as Cocoa, for example, has had a dedicated Stormwater Utility and they have been able to secure grant funding for projects throughout the City. She added that with having a dedicated funding source, they get a higher priority for funding for the projects. She said with the BMAP documents that FDEP posts on their website, they can see the comparison of what the target loads are for each of the municipalities. Mr. Tonkel requested to get that information. Ms. Fontaine said they would get that information for them.

Mr. Whittall said this Stormwater Utility is not only going to be working in reducing the nitrogen and phosphorous, but they have a problem in that they have an old system and there is a lot of maintenance that needs to be done, but is not being done. He said he lives on a canal that has a 50" pipe that helps to drain most of Miracle Mile. He explained the State put in what they call a sediment box, which may work on nice days. But when they get a real downpour, that sediment box does nothing and he can see the water going 400' up the canal and coming out of there so fast that obviously nothing is settling out in that box. He reiterated that there is a lot of maintenance that needs to be done that hasn't been done and when it fails, it costs a lot more and that is why he feels they need this money.

Mr. Gorry said a lot of the initialization if this goes forward is going to be catch up. But a portion of what is going to be spent on an on-going basis is going to be remedy in terms of building their infrastructure.

Mr. Monte Falls, Public Works Director, said the Stormwater Utility is a funding mechanism to try to address an issue that they all have. He said they all impact the Lagoon just by being here. They are trying to find a way to address those impacts with water quality and water quantity. He explained how they came up with the \$5.00 ERU rate, which was based on their 5-year capital improvement plan. He passed out some pages, which showed the capital projects and projected revenue requirements (on file in the City Clerk's office). He said what's unique about this Stormwater Utility as opposed to some others is they are only proposing to pay for capital construction, not operation and maintenance. He said this is for brick and mortar type things and large equipment that they need to maintain the system. He referred to residential development. He explained that as the mid-80's progressed, they adopted stormwater management rules that were sent down by the State. Most of the City's residential communities by the mid-80's were already developed. So the bulk of the residential communities in the City of Vero Beach have no stormwater management systems. He said when newer communities are built in the County, and some in the City, they all have their own stormwater management system that takes care of the flood control, the water quantity and the water quality. They are playing catch up in the City of Vero Beach, as is the City of Sebastian. He referred to the comments about maintenance. He said back in May, they had 11¼" inches of rain that fell in 12 hours. They have had six (6) to eight (8) pipe failures as a result of the water rushing through the system so fast. He said he just had to send a budget amendment request to take some money out of their paving account to do \$100,000 worth of pipe repairs because they don't have a dedicated source for that. He noted that the pages he handed out came straight out of their capital plan.

Mr. Old asked if it's going to be imposed on them later on with the regulations.

Mr. Falls said that right now, it's a voluntary process, but they have been told by mid-2017 or early 2018, legislation will be adopted that will set out those total maximum daily loads and they will have criteria that they will have to meet. He explained with stormwater, they try to get all of their treatment in the first flush of rainfall. If you can contain that first inch on your site, after that first inch, it is relatively clean run-off that is discharged.

Mr. Mucher commented even with that 11¼" rainfall, he never has a puddle in his yard possibly because of the soil quality. Also, he has never seen a storm drain in his neighborhood. He referred to Credit C, which says it is for a parcel that does not drain through a City maintained system.

Mr. Falls said he thinks there is a mechanism for residential credits. Ms. Fontaine said yes, that any parcel within the City can use the credit system.

Mr. Falls explained that what it means to not drain through a City system is if your stormwater is discharged into a DOT system or directly to a receiving water.

Mr. Smith asked if these improvement projects over the next five (5) years include bringing more of the City up to the standards of having stormwater, or is that separate. Mr. Falls answered that some of them will. He said a project they are going to start on this year is with grant money they have to do some work in Vero Isles on the individual drains. He said a dedicated funding source will allow them to apply for grants and be scored higher to receive those. He said they have actually had to turn back two (2) grants because they didn't have matching funds. One was for the McAnsh Park area and the other was for the Original Town area.

Mr. Smith asked if he is saying there is a lot more improvement to come. Mr. Falls said that this 5-year plan takes them to about a 50% level of treatment for all of their systems.

Mr. Tonkel referred to Mr. Falls' handout. He said he sees a negative cash flow in years 2019, 2020, and 2021. He asked if that would be made up with an increase in the rate. His second question is that it was indicated this was only for capital costs and not operating costs. He asked where they find a consolidated budget to project the operating costs associated with this venture. Mr. Falls said he doesn't see the operating costs as being any different. He explained this is the same type of operations they have been doing in Public Works since he's been here in 1991. Those costs are already being funded through the ad-valorem taxes. The capital projects in their 5-year capital plans are funded through a variety of sources, including sales tax revenue and gas tax revenue. This would be an alternative funding source for those capital projects. He said there is no change in their operational costs in the way they maintain their system.

Ms. Lawson said when they set this utility up, it will be treated as an Enterprise Fund within their books and in their CAFR. It will be a separate segregated Utility Fund.

Mr. Baczynski asked once the utility is setup and revenue is streaming, why wouldn't maintenance be included.

Mr. O'Connor said this was the obvious policy decision that administratively, they would recommend to the City Council. They want to keep this very clean and clear. They tried to confine it and the Ordinance will be very definitive of that. If they keep it just to capital projects, the maintenance and operation that they do on a daily basis now should not change. He added it may get better over time. Keeping it that way shows the residents what they are doing with it. In his opinion, something like cleaning out a ditch should not be part of this.

Mr. Whittall said he assumes that part of the capital would be things that would lower their maintenance down the road. Mr. O'Connor said that is what they are hoping for. He said they will have more facilities to maintain, such as the boxes they are talking about putting in. But he thinks it's going to be much more efficient and therefore should not impose any greater costs going forward.

Mr. Bass referred to the ERU rate comparison sheet and the difference in some of the rates. He asked which of those include maintenance in their ERU rate calculation.

Ms. Fontaine said that there are several municipalities that also include full time salaries. She said Clearwater probably has some full time salaries in theirs. She said she may be able to get some of that information. She added that around 66% of the Stormwater Utilities in Florida are charged via the utility bill and 28% are on non ad-valorem tax bill and the remainders are either a separate bill or some other mechanism.

Mr. Old said one of the questions they are being asked to decide is between the breakdown of four (4) residential categories and three (3) residential categories. He asked if there is an additional cost in being more specific with the four (4) categories. Ms. Fontaine said she thinks if there is an additional cost, it would be much less than the additional revenue that they would collect over the five (5) year period. She said it should be pretty minimal.

Mr. Gorry asked if there was any other public comment.

Mr. Brovont said there is something that they should all be aware of. The projection shows they are raising about \$950,000 a year, but they are passing about \$160,000 underneath that back to the City. So the net increase to the City is going to be about \$780,000, assuming they get everything collected as it's laid out.

Mr. Mucher asked where does the City get the money to pay its bill. Mr. Brovont said the City would have to do some budget adjustments to make it work. Ms. Lawson pointed out that the City pays its own water and its own electric currently. Those will be dispersed among the various City funds on the same basis as it will be for property owners. But they will have to budget for it.

Ms. Debra Ecker, of Riomar Drive, said she represents the Indian River Neighborhood Association (IRNA). She said they are in full support of this approach to handling this much needed effort to control and reduce the amount of pollution going into the Lagoon. They strongly support this enterprise utility approach and without repeating about the need for it, they wanted to say that they don't have a

position on whether it should be levied as a property tax or a user fee and they strongly support moving this forward to the City Council.

Mr. Brovont said the reality is that the City's budgets going forward are very tight. They are very tight on funds and they have been neglecting things, even on their own roads, because of lack of funds for capital expenditure. He said they are going to have to begin to take care of their capital structure. He added they are well beyond the point of having to do something.

Mr. Old said the only other option they have is property tax. He questioned which is fairer, doing it by impervious areas or doing it by property tax. He said if these requirements are going to be imposed on them, they have two choices.

Mr. Brovont commented that if they do it by imperious areas, it gives people an option to try and change. He said there are some things that can be done to mitigate the situation.

Mr. Smith said he has never seen a better time to make this movement toward controlling stormwater infrastructure and clean water. Publicly it is more acceptable now than it has ever been.

Mr. Brovont said they all need to recognize that water is a diminishing product and as time goes on, the projections are for water costs to go back up. They all should anticipate higher water costs to go up. All of them, as stakeholders in the City, should be very concerned about conserving water and cleaning the water as rapidly as they can. He said the Lagoon is worth millions and millions of dollars to them and without the Lagoon, they don't have much of a City.

**Mr. Whittall made a motion that they go forward with the Stormwater Utility using the four (4) tier residential categories and using the utility billing method.**

Mr. Carter Taylor said he is a customer of the City of Vero Beach utilities and acting Executive Director of the IRNA. He is here today to express their desire for this Stormwater Utility to be implemented in the City. He explained this proposal is a good opportunity to take a cost that is presently socialized and spread it out over taxpayers and convert that into an Enterprise Fund. He thinks this is a good solution, although he thinks it has an unfortunate name because there are things the word utility conjures up. He said it is simply a name that is given to an Enterprise Fund whose goal is to find a price for a scope of work or a capital program that is voted on by the City Council. There is no unaccountable bureaucracy out of control here. He feels this way makes it a lot more transparent and clean for the public. He explained they really see this as a very valuable approach. He said the Lagoon is very important. He added that over 100 jurisdictions have implemented it and made it work. He urged them to endorse this over to the City Council for their implementation.

Mayor Laura Moss said one factor that she has not heard addressed here today is the expectation of the community with regard to being able to weigh in on this issue in the form of a referendum. She is going to look at this historically in the form of a referendum and giving the community the opportunity to speak specifically on this matter.

Mr. O'Connor said that the concept of a referendum has been discussed in relation to the Stormwater Utility. He said there is no obligation for a referendum legally speaking.

Mr. Old said it has been discussed on both sides, but a conclusion has not been drawn.

Mr. O'Connor commented that they have to be balanced at the end of the day and it is going to be a balanced budget one way or another.

Mr. Baczynski said that raises the question again about maintenance. He agreed it is a policy decision, but he thinks it's a policy City Council should think about very seriously. He referred to robbing Peter to pay Paul. He said if the Stormwater Utility is generating revenues, there will be a temptation to rob the maintenance out of it. They could call something a capital project and pay it out of the Stormwater funds, which is not the way to operate a business.

Mr. O'Connor said that Council will have the ultimate say. He explained from his perspective, they need to have transparency and goals where they can show where they spent the money.

Mr. Gorry said so they are not going to have an administration charge. Mr. O'Connor answered no. He said this will be new money to pay for projects that they can't afford to do now.

Mr. Baczynski asked when they're caught up with the system and it's functioning, are they going to then bank the money that they get in. Mr. O'Connor answered no. One day they may not need the Stormwater Utility, but he does not see that in the foreseeable future.

Mr. Falls said if they ever caught up, the component of the improvement project would go away, but the repair/maintenance would constantly be in there. He said the calculation for the rate may change, but there is always going to be some type of need for some type of capital project in the Stormwater system.

Mr. O'Connor commented that a new pipe is always going to be necessary. Mr. Baczynski added there is always the small level of repair and maintenance to keep that pipe running.

Mr. O'Connor said it is about \$700,000 a year for operation and maintenance. They are trying to keep it clean and simple. He added that City Council has not taken a position on it at this point.

Mr. Gorry asked if it is appropriate to say that some of this construction work might be contracted out.

Mr. O'Connor answered yes. He said they would pay the contractors under the total contract.

Mr. Charlie Pope said they all know the importance of cleaning up the Lagoon. He wanted to point out that St. Edward's has 500 children in the water during summer camp, the Environmental Learning Center has 350, and the Youth Sailing Foundation has 100. He said that is over 1,000 children in the water over the summer.

Councilmember Richard Winger, 1361 Indian Mound Trail, said he gives them his address for a reason, which is they should go by his house. He said his house is zero (0) discharge to the Lagoon. He has 150'

on the Lagoon. He built a seawall and, if the front yard floods, he can hold 2" of water in his own yard. He chose to make a lake on his own to do that. He has served on the Florida League of Cities Environmental Recommendation Commission for five (5) years. He said they tried to sponsor legislation to force other government entities to pay. He said the reason legislation was pushed was because of the poor payment record in other counties. He said they did a five (5) year estimate of the City's funds and they are \$1.1 million short. So, he said next year, there will not be a Stormwater Utility because the money is simply not there. He said last year, they had to pass up a \$260,000 matching grant for Original Town and McCansh Park and they had to pass them up because they had no funding. This year they got \$120,000 and they were able to scrape up the funding. He said that a referendum has been discussed. His position is that he has been elected to make decisions of this sort and he thinks City Council has the responsibility to do what's right for the public.

**Mr. Whittall made a motion for the Utility Commission that they recommend to City Council that they go forward with the Stormwater Utility and utilize the four (4) tier residential structure (Alternative 1B) and the Utility Billing method and continue with the Stormwater Utility Study. The motion was seconded.**

Mr. Mucher said he intends to vote against that motion because he does not agree with the utility billing. He does agree with the four (4) tier structure. He feels this is a \$4 million tax increase so he supports having a referendum. He will not vote for this.

Mr. Whittall said it is not an increase in taxes. He said it is a transfer of expenses that they need to do to keep their City going. He does not think with the non ad-valorem method they will get their money. He said if they are forced into doing this by the State government, it would have to be by non ad-valorem.

Mr. Mucher said they are being forced into doing this. He agrees they need to spend money on stormwater management. He said they do need to find that money somewhere and spend it.

Ms. Fontaine clarified that every instance in the report should say non ad-valorem instead of ad-valorem.

Mr. Gorry said they have a major shortfall in their roads and infrastructure. He said as emergencies come up, the Public Works Director has to make a decision, for example, whether to do streets or stormwater.

Mr. Baczynski said it is understood that emergency repairs cost many times more than routine maintenance. He said robbing Peter to pay Paul by skipping on maintenance and then having to pay many times more because of emergency repairs is a situation they need to try and avoid.

Mr. Whittall said they have been putting off capital projects that would reduce maintenance.

Mr. Tonkel asked if this is a mandate or is it discretionary. He asked if it is likely to be a mandate.

Mr. O'Connor gave an analogy using Wastewater Treatment Plants. He said if history teaches them anything, the future is that these are going to be really regulated and there will be a crisis. He said there

was a massive amount of capital put in and that's where a lot of the bond issues came in. He thinks in their future, they are going to see these types of regulations through permitting processes that they are going to have to meet. He said if they don't have a dedicated revenue stream, what they're going to be doing is, for example, not hiring a Police Officer, but doing a catch basin clean out.

Mr. Tonkel said so it is non-existent today, but very predictable. Mr. O'Connor answered yes.

Mr. Tonkel asked if Mr. Whittall would be willing to modify his motion to allow the City Council, as part of the Resolution if it is passed, to undertake and evaluate the value of a referendum.

Mr. Whittall said he didn't think that needs to be in their motion. He feels that would be up to the City Council whether they want to pursue that or not.

Ms. Fontaine said they should do what's best for their community in whatever the specifics are, but a referendum is pretty much unheard of for this type of thing.

Mr. Brovont pointed out that if it is going to come down to government regulation, it would override any referendum that they may have held anyway, whether it passed or didn't. He said they should think about the fact that humans are the only animals on this planet that foul their own nest.

**The Utilities Commission's motion passed 6-1, with Mr. Auwaerter voting yes, Mr. Tonkel yes, Mr. Whittall yes, Mr. Smith yes, Mr. Mucher no, Mr. Baczyzinski yes, and Mrs. Orcutt yes.**

The Utilities Commission's meeting adjourned at 11:11 a.m.

**Mr. Brovont made a motion from the Finance Commission to follow the Utilities Commission's motion to adopt recommendation 1, adopt recommendation 2 with Alternative 1B, and to adopt the Utility Billing method. Mr. Old seconded the motion and it passed 5-0, with Mr. Gorry voting yes, Mr. Brovont yes, Mr. Old yes, Mr. Bass yes, and Mr. DeMattia yes.**

Mr. Old asked if they could have a separate Finance Commission meeting sometime soon. Mr. Gorry said they are waiting for some data Ms. Lawson is preparing for them, which they should have towards the end of the month and then they will have a separate meeting.

Ms. Lawson said they normally have a meeting the first or second week of February with regards to the quarterly reports and other general ongoing business of the Finance Commission. They could combine that with this discussion or have a separate meeting.

Mr. Gorry welcomed their new member, Mr. Ryan Bass, to the Finance Commission.

The Finance Commission's meeting adjourned at 11:14 a.m.

/hm