

**CITY OF VERO BEACH, FLORIDA
SEPTEMBER 15, 2009 4:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Sabin Abell, present; Vice Mayor Tom White, present; Councilmember Debra Fromang, present; Councilmember Bill Fish, present and Councilmember Kevin Sawnick, present. **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Pastor Alan Neiman of Lakeside Fellowship Church.

C. Pledge of Allegiance

The audience and the Council joined together in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

The City Clerk removed item 2C-1) from the agenda. She also requested that Council move item 9B-1) up on the agenda and hear it before the Public Hearings.

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

B. Proclamations

1. Constitution Week – September 17-23, 2009

Mayor Abell read and presented the proclamation.

C. Public Comment

1. Charlie Cox wishes to speak about the electric utilities in the City of Vero Beach

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

*Please Note spelling may not correct for the different people speaking under Public Comments.

Mr. Comardi stated that he has City water and sewer, but lives in the County. He complimented the service that he receives and has received it for the last forty years. However, he felt that the proposed new rates and current rates do not promote conservation. Also, for the last few years the City has been adding additional chemicals to their water two times a year. He asked if this is a requirement from EPA and why is it being done two times a year. He gave some suggestions on what the City could do when they need additional funds for large improvements to the water and sewer system. They included increasing the millage rate, issuing water and sewage bonds and implementing a small rate increase to the water and sewer customers.

Mr. Ken Daige read from a prepared statement (please see attached).

Shelia (young child/last name not given) told Council that she liked Vero Beach because it is lots of fun.

Mr. Harvey Rosenbaum was concerned with senior citizen issues. He said that there are a lot of senior citizens living on fixed incomes. He said that his utility bill has tripled and that it was uncautionable for them to be doing what they are doing with these rates.

Mr. Vince DeTurriss stated that the proposed electric rate structure is 21% more than what FP&L's rates will be even when the City will be under the new contract in January. He said that there will be shortfalls and he doesn't know what they have planned to meet those shortfalls. Their utilities are affecting the total way of life in Vero Beach. He wanted Council to give City electric customers who live in the County the opportunity to vote on the referendum in 2010 that the City electricity be switched over to FP&L and that the City merge with the County and let them provide water services to the community.

Ms. Lee Regan stated that she was not angry, but disappointed at some of the results of the study. She mentioned two items. At the Town Hall meeting that was recently held it was said that Council was considering raising rates in the winter because of the snowbirds. She said that personally she thinks that is a bad idea. She said most rates that are raised will not come down. In regards to the speech made by Mr. DeTurriss, she was sure that residents would like to have a stance regarding the 2010 referendum. She believes that nothing is impossible or she would not have been attending these meetings for the last two years.

Mr. Thomas LaRue commented that he once had a staff of 24 employees, but this summer he had to lay off some of his employees and is now down to 14 employees. He brought this up to show how the utility charges are affecting this community. He said that businesses are closing left and right because they cannot survive.

Mr. Charles Wilson, 1835 36th Avenue, Vero Beach, knows that Council has some hard decisions to make, but he said that they are killing the residents. He said that they have to lower the rates and stop making excuses for not having these rates lowered. They need to move forward on realization on water and waste water facilities. What you have on your hands is a customer revolt. It is not fair for the City residents in Vero Beach if they were to lose half of their customers (consolidating water services with the County). He suggested marketing the electric facility for sale. He said that if they can't be competitive in the power business then they need to get out of the power business. He has a plan available to make this happen and he has a plan to reduce these rates.

Ms. Claire Burns had some questions on how the electric company operates. She knows some people who are paying more for their electric than their rent.

Mr. John Samertona teaches water aerobics class at Leisure Square. He thanked Council for keeping the pool operational. He said this decision has positively affected people's lives. He passed out a survey to people using the facilities asking them how long they have been attending water aerobics at Leisure Square, has it helped them, and if the pool was not available how do they intend on continuing their exercises (these surveys are on file in the City Clerk's office).

Mr. Theo Carpenter, President of the Rockridge Subdivision, asked Council that while making their decision to think about some of the elderly people and the young people. He said they are having a hard time making it. He said to make this a better community they have to think about the people who live here.

At this time, Mayor Abell made some comments at the request of Councilmember Fromang. He reported that it has taken the City five years to get out of their contract with FMPA and that will become effective January 2010. He said then they will enter into their new contract with OUC, which is competitive with FP&L. Their rates will be going down for their January bill. He said from the articles that he has been reading it looks like FP&L will be looking at a 20% increase. He expressed that there has not been a City utility rate increase implemented since 1992. He wanted to make sure that the public understood this. He was not familiar with anyone making flipped comments about what you can do about your bill (referring to Mr. Daige's comments).

Mr. White added that seven years ago they began looking at how to get out of their contract with FMPA. He said that they saw the handwriting on the wall back then. He said that they are definitely very lucky for getting out of this agreement.

Mr. John Desriba questioned whether they were looking at a solution for this problem. He wondered if they have looked at the option of natural gas.

Mayor Abell explained to Mr. Desriba that natural gas is the problem. He briefly went over why.

Mr. White added that there are gas lines that go down 16th Street, but from what he understands these lines are not available for residential use.

Mr. Brian Heady began his comments by saying liars, cheats and thieves are people that you do not want in charge. He has been arrested and put in jail for trying to speak before the governing body. He gave some history of the Power Plant and noted that the City of Vero Beach sued FMPA and they lost the case, which cost the City two million dollars. He said if anyone thinks they are going to get anywhere with FMPA after suing them, it was not going to happen. He continued by saying that the utility consultant that they use now is the same consultant used when they lost their case to FMPA. At this time Mr. Heady was told that his three minutes were up.

Ms. Kim Ross, 2426 44th Avenue, thanked Council for allowing them to talk at this meeting. She was upset about the surcharge (fuel adjustment). For the future we want families with children to live here, but we have to do something to lower the cost of their utilities.

Mr. William Murphy commented that they have been talking about electric rates going down in January, but he has read where the water and sewer rates will be going up. He wondered if anyone has figured how much of a savings that there actually will be.

Mr. Ben Circus, 1555 40th Avenue, commented that it was good to hear that their electric rates will be going down, but now their water and sewer rates are going to go up. He said they are talking about raising water rates and people are having to take pay cuts. He asked about City employees and wondered if their salaries have been reduced. He knew of a dispatcher that worked for the City and that person made a good salary. His whole point was that he has lived here for three years and he cannot afford to stay here and support his girlfriend and child, which means that he will have to move out of Vero Beach.

Ms. Anjie Morn stated she moved here because it was an affordable community to live in, but that is no longer true because of the utility rates. She has to keep her air conditioning running at 82 degrees. She then questioned why the Council Chambers was so cold.

Ms. Murphy stated that she was horrified when she looked at her last utility bill, which was \$900.00. She said that she lives in a home with just her and her husband. She has to keep her air conditioner running because she has asthma. She had the power company come out and check her house to see if there was anything that she could do to make it more energy efficient and she was told that everything is fine. She said what motivated her to come and speak before Council today was when she read that there was a Veteran in their community who could not afford to pay for his utilities and he was coming close to having his utilities shut off.

Mr. Roger Kent was happy to see such a good turnout at today's meeting for the public to give their comments.

Mayor Abell reiterated that they are entering into a contract with OUC whose rates are competitive with FP&L.

Mr. Ron Silvon, Timber Ridge, commented that he has had more power outages than he can even count. He is looking to purchase another home and it will not be with this utility company. He doesn't know why they want to stay in the utility business. He referred to the audience and commented that they needed to look at these people who are so unhappy about their electric rates.

Mr. Dominick Comisono, 1505 14th Court, commented that he has lived in this County for over four years and there is a problem with the utilities. He said that the Power Plant costs too much money to operate. He keeps hearing that in January their utility rates are going to be lower. He said of course they will because the weather will be cooler and people won't have to run their air conditioners. They can find the solution, but everyone has to work hard to identify the problem. At this time he was told that his three minutes were up.

Ms. Delores Hill told Council that she lives in a HUD residential area and that she lives there because she is on a fixed income and only brings in \$744.00 a month. It is impossible for her to pay a high electric bill on her fixed income. She would appreciate some help on lowering the electrical rates. She reiterated that there are a lot of people who just cannot pay these high rates. They need to be lowered as quickly as possible.

Mr. David Simmons, resides in Village Green and serves on their Association, stated that he lived in Orlando for 35 years before retiring to Vero Beach 11 years ago. They decided that Vero Beach was where they wanted to spend their retirement days. They received their utility bill last month and they used less kilowatt hours than the month before, but their bill was more. He could not understand that. He said that it does not make sense. He doesn't know who to blame for it.

Ms. Susan Viviano, Candidate running for City Council, said that she has been listening to what is going on at this meeting and felt that she needed to make some comments. She noted that young people were moving out of this community and older people were dying. She was worried that there would not be enough residents living in Vero Beach to carry it. She expressed that her recent electric bill was \$600 and she lives alone. She doesn't understand why the fuel charge is up so much and gas is down.

Ms. Diana McLaughlin expressed that the only way there is going to be a solution to this problem is if the Florida Legislature is contacted about this monopoly taking place in Vero Beach.

Mr. John Lee, Customer Service Manager, was requested to come up and address some of the questions just asked by members of the public. Mr. Lee informed Council that they do burn natural gas at the Power Plant. However, the City is not in the natural gas

business. The natural gas businesses tend to target restaurants. He said that coal is not a viable option at this point in which to build new Power Plants.

Mayor Abell asked Mr. Lee to get in contact with the lady who spoke this morning and said that her electric bill was \$900. He also advised Ms. Viviano that she should come to City Hall and talk to staff about her \$600 utility bill.

Mr. White thought that it was important for the public to know that the City has not raised their electric utility rates since 1992. He explained that these are pass-through charges (fuel adjustment) that come along with the FMPA contract.

Mr. Lee explained why they are having to pay such high fuel charges and also the recent charge by FP&L dealing with transmission tariffs.

Mrs. Fromang expressed that Council doesn't like having to pay these high electric bills any more than anyone else does. They are trying to do everything that they can. She said in January the bills will be lower. She was not sure how much lower they will be, but they will be lower and they will be looked at again then.

Mr. Fish made the comment that he wears three hats. He is a City resident, a County resident and a City Councilmember. He said that every time someone brings up transferring their water services to the County, he explains the money that they have spent to keep their Plant running and up to current EPA standards. He said that someone has to pay for it. He then asked Mr. Bolton if he would address the concerns that someone had about dumping chemicals into the water.

Mr. Robert Bolton, Water and Sewer Director, explained that what they do, as any utility company does, is have a water disinfectant program in place and done periodically. They shut off the ammonia that goes into the water and feed straight chlorine. He said that the County's water system is actually always high in chlorine. So actually they are not adding any chemicals, they are actually shutting one off and not letting it go through. There are samples of their water quality taken hourly and all the results are turned over to the State monthly for their review.

Mr. Sawnick expressed that they must always keep their options open. He said a few years ago this was the best option for the sitting Council. He said if someone does have a solution Council needs to hear it as well as any complaints that they may have.

Mayor Abell expressed that it was very important that if any of the public does have questions that they meet with staff or call the Council. He said that they would be better off dealing with Council directly. He then commented that on their sitting Utilities Commission that they have more representation from members living in the County than members living in the City. He then commented that they are working on formalizing a new Utilities Commission. He briefly addressed some of the comments brought up by members of the public at today's meeting.

Mr. White agreed with the Mayor that Council is always available for the public to come in and talk to them or meet with staff. If they don't know the answers, they will put them in contact with someone who does.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – September 1, 2009**
- 2. Property, Casualty and Workers' Compensation Insurance Renewals**
- 3. Monthly Capital Projects' Status Reports**
- 4. Transmittal of Electric Rate Study to Public Service Commission**

Mr. White made a motion to adopt the consent agenda as presented. Mr. Fish seconded the motion and it passed unanimously.

1. Royal Palm Pointe Fountain – Debbie-Kay Whitehouse, Recreation Commission Chairman

Mrs. Debbie-Kay Whitehouse, Recreation Commission Chairman, spoke to Council about a letter that she sent them regarding the Royal Palm Pointe fountain. She realizes that the Recreation Commission serves as an Advisory Commission to the City Council. She reported that individually the Commission members have visited different Parks throughout the City. They visit these Parks to see how many people are using them and what condition they are in. They then do an annual report and submit it to Council with this information as a part of it. One of the Parks that they reviewed was Royal Palm Pointe and they submitted their annual report in February. She referred to her personal observation report and noted that she was pleased to see that they were up to date and that this Park is very pristine and picturesque. She reiterated that she prepared this report back on January 27, 2009. She wanted it made clear that in no way was the Recreation Commission recommending that a usage charge be implemented for the fountain. However, there is cost incurred to run the fountain. She said that in 2003 there were 5,625 people who enjoyed the fountain and that number has probably increased. She was told by the Recreation Director that during the peak season there is an average of 6,000 people per month using the fountain. She expressed that there is a cost to maintain the fountain, which does not include the capital improvements that need to be done. She said that the employee assigned to the fountain works on it between one to four hours a day when it is operating. She said that a couple of years ago they implemented a donation policy for the fountain and received approximately \$1,500 in just seven days. She suggested that they reestablish this donation policy at the fountain, but only during peak periods. This donation program could help defer some of the costs to the City. She said that Council's approval shows faith in the Recreation Commission.

Mr. James Gabbard, City Manager, reported that there have been some discussions about this. He said that there are some "bugs" that need to be worked out, but it is something that can be done. He said they are talking about a voluntary donation. He said that when they collected this money over the last spring break vacation there was a person actually

collecting money so it really wasn't "voluntary." He will work with the Recreation Director on this and bring it back to Council.

At 5:41 p.m. Council took a short break.

3. PUBLIC HEARINGS

- A) **An Ordinance of the City of Vero Beach, Florida, providing and establishing revisions to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2008 and ending September 30, 2009, by increasing the General Fund by \$891,960; by increasing the One Cent Sales Tax Fund by \$5,073.914; by increasing the Electric Fund by \$9,801,440; by increasing the Water and Sewer Fund by \$4,653,803; by increasing the Airport Revenue Fund by \$867,824; by decreasing the Marina Fund by \$429,600; by increasing the Solid Waste Fund by \$5,500; by increasing the Confiscated Property Trust Fund by \$30,300; All From Revised Revenue and Expenditure Estimates; by increasing the General Construction Fund by \$9,683,214; by increasing the Electric R&R Fund by \$9,801,440; by increasing the Water & Sewer R&R Fund by \$4,509,803; by increasing the Airport Construction Fund by \$4,664,146; by increasing the Recreation Fund by \$187,450; by increasing the Cemetery Trust Fund by \$9,200; all from Revised Expenditure and Transfer Estimates.**

Mayor Abell read the Ordinance by title only.

Mr. Steve Maillet, Finance Director, stated that this is the second of two public hearings for the budget amendment. What this Ordinance does is catches up their budget document with all the activities going on for the last year.

Mayor Abell opened the public hearing at 6:02 a.m.

Mr. Ken Daise questioned that since this is catch up with all these increases is the City borrowing any money to cover the increases.

Mr. Maillet answered no.

Mayor Abell closed the public hearing at 6:03 p.m., with no one else wishing to be heard.

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

- B) **A Resolution of the City Council of the City of Vero Beach, Florida, changing Monthly Water and Wastewater Rates; changing Water and**

Wastewater Impact Fees; changing Miscellaneous Charges for Customers Inside and Outside the City limits; providing for definitions; providing for an effective date.

Vice Mayor White read the Resolution by title only.

Mr. Rob Bolton explained that this is the final rate that they have come up with after going through a whole process, which has taken close to 24 weeks. He said that they first went through and determined what the rate deficiencies were. They took the report to the Utilities Commission and then presented it to the City Council. As a result of the joint meeting held with the Utilities Commission and the Finance Commission they agreed that they wanted to restructure the rates to the base case scenario. This has been a long process. The consultants have done a good job. We still will struggle for the next few years to build up some cash for our reserves, but in year five they should be in good shape.

Mayor Abell opened the public hearing at 6:07 p.m.

Mr. Ken Daige read a prepared speech (please see attached).

Mr. White asked the City Attorney if they could vote on the water rates and sewer rates separately.

Mrs. Fromang made a correction that she had said at their last meeting regarding the pay back of the loan. She thinks that the City of Vero Beach is a beautiful place, but it is not just the utilities that are the problem, it is the whole economy. You just can't point to one single thing. She said that with the water rates that they have to take care of their infrastructure. She said to say that Vero Beach doesn't look good is wrong. We are all trying our best and they have no choice when it comes to the Deep Injection Water Well.

Mayor Abell closed the public hearing at 6:15 p.m., with no one else wishing to be heard.

Mr. White understood that there is a lot of infrastructure that needs to be done. However, he feels that a 29½% increase is outrageous. He could agree with an increase of water rates of about seven percent. He suggested doing the rate increase in increments. He suggested one now, one in January and then another one in April.

Mrs. Fromang liked that idea, but she reminded everyone that she has been told that they have to do this increase in October in order to qualify for the stimulus money.

Mr. Bolton recalled that one of the earlier options was to split the 29½% increase and do half now and then do the other half in March 2010.

Council agreed that any compromise was better than no compromise at all.

Mr. Henry Thomas, Principal of Public Resources Management Group, Inc., said that they have two issues going forward. They know that they have to do the Deep Injection Well and they need to adopt the rate increase in order to demonstrate how they can repay the stimulus money. He expressed that the net bill will go down in January and there is a little bit of flexibility. But, it will not get them out of the hole. Their water and sewer rates right now are the lowest in the entire region. He said at the very least they should look at a ten-percent increase. The other alternative you could do is put more burden on the people who pay water rates and live in the City. He reiterated that right now their water rates are very low compared to surrounding communities.

Mr. White questioned what if they do merge with the County on their water facilities, what will happen to those two new buildings that they want to build at the Water Plant.

Mr. Bolton expressed that even with a complete merger that they will still need people to take care of the Plant. He commented that there has been some discussion that took place by the County and now they want to have a joint meeting (County, City and Indian River Shores) in October to discuss this.

Mr. White said that they need to look at the whole picture and they want to make sure that they are frugal on how they do that.

Mr. Bolton expressed that the new buildings would be roughly one-percent of the rate increase.

Mrs. Fromang commented that the only merger she heard about between the City and the County was for wastewater.

Mr. White informed her that they are now talking about both water and wastewater.

Mrs. Fromang did not think that these buildings would be a part of the agreement if they were to partner with the County on the Wastewater Treatment Plant.

Mr. Bolton reiterated what was said by Mr. White and that was that the entire water system has been brought up by the County to partner with them. This is not just the Water Treatment Plant, but also the water services.

Mayor Abell asked the City Attorney if they were to implement the rate increases, would they need to start the public hearing process all over again.

Mr. Vitunac explained that they could make a motion with the changes and he would make sure that the changes are included in the Resolution.

Mr. Bolton gave an option of doing a half increase now effective October 1st and then another half increase on April 1st.

Mr. Fish made a motion to cut the sewer rate in half.

Mr. Murray said when they originally had the rates going into effect in January it was a 39% increase and not a 16% increase. This was the first thing they presented to Council. The way of lowering this rate was to move forward and start collecting money in October. They can't just take the 29½% and split it in two and be whole. This isn't saying that they couldn't pay the debt back in 2010. But, they won't have any reserve funds and might be relying on the general fund if they wait. He said to be safe they need to do an increase of 18% and 18%.

Mr. Fish wondered if they could hold back until after January, then have a larger increase in January. Mr. Murray said he is not going to say that is not possible, but at this point he could not say what those numbers need to be.

Mr. Vitunac suggested adopting a rate not to exceed a certain rate and give the consultant and Mr. Bolton the authority to come back with something lower if they can work the numbers. The motion should be to get an 18% rate increase effective October 1st and then another 18% rate increase on April 1st or such lower rate as they are able to come up with, which they will bring back to Council.

Mr. Fish amended his motion to adopt the Resolution giving an 18% rate increase effective October 1st and then another 18% rate increase on April 1st or such lower rate as Mr. Bolton and the consultant are able to come up with. Mr. Sawnick seconded the motion and it passed 4-1 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White no, and Mayor Abell yes.

C) An Ordinance of the City of Vero Beach, Florida, providing for Levy of Ad Valorem Taxes for the Fiscal Year 2009-2010 at a Millage Rate of 1.9367 which equates to \$1.9367 per \$1,000 of Assessed Property Value.

Mrs. Fromang read the Ordinance by title only.

Mr. Maillet stated that this is the second and final public hearing for the millage rate.

Mayor Abell opened the public hearing at 6:44 p.m.

Mr. Ken Daige thanked Council for their consideration on the water and sewer rates.

Mayor Abell closed the public hearing at 6:45 p.m., with no one else wishing to be heard.

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

D) An Ordinance of the City of Vero Beach, Florida, adopting the Annual Budget of the City for the Fiscal Year beginning October 1,

2009 and ending September 30, 2010, appropriating funds for the Operating Expenses, Supplies, and Personnel, and otherwise appropriating funds for the Efficient and Effective Operation of the Government of the City of Vero Beach and its Departments; such appropriations being from anticipated revenue; providing a means to amend the Annual Budget to carry forward the funding of Purchase Orders, Work Orders, and Grants outstanding as of September 30, 2009; providing a means to amend the Annual Budget to reflect Grants received after September 30, 2009; and authorizing the transfer of funds appropriated so long as the total combined appropriations shall not be increased thereby; providing an effective date.

Mr. Fish read the Ordinance by title only.

Mr. explained that this is the budget for fiscal year 2010.

Mayor Abell opened and closed the public hearing at 6:47 p.m., with no one wishing to be heard.

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

- E) An Ordinance of the City of Vero Beach, Florida, requested by Shiva 17th Street, LLC, to amend the official zoning map by changing the zoning designation from RM-10, Multiple-Family Residential to POI, Professional, Office, and Institutional, for the property located between 17th and 18th Streets and 5th Avenue and Indian River Boulevard, including a portion of Lot 1, Block 2, of Dr. Richard E. Bullington's Subdivision, Parcel I.D. Number 33-39-01-00027-0020-00000.9, containing 0.88 acres, more or less; and providing for an effective date.**

Mr. Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, reported that this was a request from an applicant to rezone property between 17th and 18th Streets and 5th Avenue of approximately 0.88 acres. He pointed out where the boundaries are. Staff has reviewed this and it is in compliance with the different regulations that must be met and is in accordance with their comprehensive plan. The only access to the property would be from 17th Street. Staff recommends approval of this Ordinance. The Planning and Zoning Board also approved the Ordinance (their minutes are part of the record).

Mr. Bruce Barkett, Attorney representing the applicant, had nothing to add unless Council had specific questions.

Mayor Abell opened and closed the public hearing at 6:52 p.m., with no one wishing to be heard.

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

- F) An Ordinance of the City of Vero Beach, Florida, amending Chapter 62, Article II, Professional, Office, and Institutional (POI) District, Section 62.18 and 62.29 of the Vero Beach Code; adding Health and Fitness Clubs as a permitted use in POI District for Developments of at least 50,000 square feet in floor area and limiting size of Health and Fitness Clubs to 7,500 square feet; providing for required parking for Health and Fitness Clubs of one space per 200 square feet; providing for conflict and severability; providing for an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. McGarry explained that this would be the first of two public hearings. The applicant requests this amendment in order to allow a health and fitness club, which would be limited to 7,500 square feet floor area. The hours of operation would also be limited. This Ordinance also amends Section 62.29 of the Code. He said that staff has reviewed the Ordinance and recommends approval. Staff's report was made part of the record. The applicant was at today's meeting to answer any questions that Council might have.

Mr. Fish's only concern was opening the door to something that they don't know what it is going to be.

Mr. Bruce Barkett, Attorney representing the applicant, told Mr. Fish that this could only be for 7,500 square feet within a building that is a 20,000 square feet. He doesn't believe that they are opening a door.

Mr. White also had some concerns. He said that there are a lot of POI areas in the City of Vero Beach. He said for some reason 7,500 square feet inside a 20,000 square foot building in a POI district does nothing for him.

Mr. Barkett agreed with Mr. White that there are a lot of POI districts. He said by the passage of this Ordinance they could not go into any POI district that has a big facility. They are looking at going in the Old Doctor's Clinic.

Mayor Abell opened the public hearing at 7:00 p.m.

Mr. Ken Daige agreed with the comments made by Mr. White and Mr. Fish and that was that they needed to be careful. He said that POI districts are having negative effects.

Mayor Abell closed the public hearing at 7:01 p.m., with no one else wishing to be heard.

Mr. McGarry said that staff shares their concerns with POI districts. However, with this proposal he doesn't think that it will hurt POI.

Mr. Sawnick commented that there were a lot of health/fitness clubs in this area.

Mr. Barkett said in this particular location there would be an empty lot if this does not pass.

Mrs. Fromang made a motion to approve the Ordinance and set the second public hearing for October 6, 2009. Mayor Abell seconded the motion and it passed 4-1 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White no, and Mayor Abell yes.

- G) An Ordinance of the City of Vero Beach, Florida, amending Chapter 64, Article II, "Nonconforming Uses" of the City of Vero Beach Code by creating Sections 64.29 and 64.30; providing regulations governing nonconformities with the City's Land Development Regulations resulting from Eminent Domain Proceedings and Annexations of unincorporated lands; providing for conflict and severability; providing for an effective date.**

Mr. White read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:06 p.m., with no one wishing to be heard.

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

- H) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County designation of C/I (Commercial/Industrial) to a Comparable City of Vero Beach designation of C (Commercial) for three separate contiguous properties, located between 43rd Avenue and 44th Avenue; South of State Road 60, including Lots 1 and 2,3,4 and 25 and a portion of Section 4, Township 33 South, Range 39 East, Pinewood Subdivision, 1.29 acres, more or less; and providing for an effective date.**

Mrs. Fromang read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:09 p.m.

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

- I) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of CG (General Commercial) to a comparable City of Vero Beach designation of C-1B (General Commercial Trades and Services) for three separate contiguous properties, located between 43rd Avenue and 44th Avenue, South of State Road 60, including Lots 1 and 2, 23, 24, and 25 and a portion of Section 4, Township 33 South, Range 39, East Pinewood Subdivision containing 1.29 acres, more or less; and providing for an effective date.**

Mr. Fish read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:11 p.m., with no one wishing to be heard.

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

- J) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use designation of annexed land from Indian River County designation of L-2 (Low Density Residential-2) and C/I (Commercial/Industrial) to a comparable City of Vero Beach designation of RM, Residential Medium, for the property located Northeast of 12th Avenue and 12th Street including a portion of the Southwest quarter of the Northwest quarter of Section 12, Township 33 South, Range 39 East, containing 7.75 acres, more or less; and providing for an effective date.**

Mr. Sawnick read the Ordinance by title only.

Mr. McGarry entered into the record a school concurrency availability determination from the Indian River County School District.

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

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

- K) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RM-6 (Multiple-Family Residential) and CL (Commercial Limited) to a comparable City of Vero Beach designation of RM-8 (Medium Density Multiple-Family Residential) for the property located Northeast of 12th Avenue and 12th Street including a portion of the Southwest quarter of the Northwest quarter of Section 12, Township 33 South, Range 39 East, containing 7.75 acres, more or less; and providing for an effective date.**

Mrs. Vock read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:15 p.m., with no one wishing to be heard.

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

- L) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use designation of annexed land from Indian River County designation of C-2 (Conservation-2) to a comparable City of Vero Beach designation of ES (Environmentally Significant) for the property consisting of three separate parcels, located between 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. McGarry explained that for this item and items 3-L and 3-M on the agenda, there are sign-up sheets for anyone wishing to be notified by DCA of intent of compliance.

Mayor Abell opened and closed the public hearing at 7:18 p.m., with no one wishing to be heard.

Mr. Fish made a motion to approve the Ordinance and that it be transmitted to DCA and after their comments have it come back for a second public hearing. Mr. Sawnick seconded the motion and it passed 5-0 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

- M) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land**

from Indian River County designation of RM-6 (Multiple Family Residential) to a comparable City of Vero Beach designation of R-1AAA (Single Family Residential), for the property consisting of three separate parcels located between 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.

Mr. White read the Ordinance by title only.

Mr. McGarry explained that by passing this Ordinance it would be changing the designation of annexed land to a comparable designation to what the County currently has.

Mayor Abell opened and closed the public hearing at 7:19 p.m., with no one wishing to be heard.

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

- N) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use designation of annexed land from Indian River County designation of C-2 (Conservation) to a comparable City of Vero Beach designation of CV (Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ and the North $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.**

Mrs. Fromang read the Ordinance by title only.

Mr. McGarry commented that they are not anticipating any development on this property.

Mayor Abell opened and closed the public hearing at 7:22 p.m., with no one wishing to be heard.

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

- O) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land**

from Indian River County designation of RS-1 (Single Family Residential to a comparable City of Vero Beach Designation of P-1 (Park-Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.

Mr. Fish read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:23 p.m., with no one wishing to be heard.

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

- P) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use designation of Annexed Land from Indian River County of designation M-1, (Medium Density Residential -1) to a comparable City of Vero Beach designation of RM Residential-1) to a comparable City of Vero Beach designation of RM (Residential Medium) for the property abutting the City limits North of the Intersection of 33rd Street and 13th Avenue, including a portion of the Northeast Quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.**

Mr. Sawnick read the Ordinance by title only.

Mr. McGarry explained that this Ordinance will amend the future land use map to a designation of RM for the property located north of the intersection of 33rd Street and 13th Avenue.

Mayor Abell opened and closed the public hearing at 7:25 p.m., with no one wishing to be heard.

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

- Q) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation RM-6, Multiple Family Residential to a comparable City of Vero Beach designation of RM-8,**

Medium Density Multiple Family for the property North of the Intersection of 33rd Street and 13th Avenue, including a portion of the Northeast quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

Mrs. Vock read the Ordinance by title only.

Mayor Abell opened and closed the public hearing at 7:26 p.m., with no one wishing to be heard.

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

R) A Resolution of the City of Vero Beach, Florida, approving the Transmittal to the State of Florida Department of Community Affairs of three proposed large scale amendments to the Future Land Use Map of the City's Comprehensive Plan; providing for an effective date.

Mayor Abell read the Resolution by title only

Mayor Abell opened and closed the public hearing at 7:28 p.m., with no one wishing to be heard.

Mr. White made a motion to approve the Resolution, which would approve the transmittal to the State of Florida Department of Community Affairs of the three proposed large scale amendments to the future land use map of the City's Comprehensive Plan. Mr. Fish seconded the motion and it passed 5-0 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

None

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

None

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Request for Approval of Amendment No. 1 to Work Authorization No. 2 for Construction Services with ARCADIS, Inc. – Deep Injection Well Storage Reservoir (Tank) and Pumping Station at the Water Treatment Plant

Mr. Bolton reported that at the Special Call meeting held on December 17, 2007, City Council approved this work authorization. The construction service for the work was estimated at \$150,000.00 and was defined in the authorization. However, the cost was not included in the authorization as staff felt there would be a savings by constructing this work and the Deep Injection Well (Work Authorization No. 1). Council approved noting that an amendment to the Work Authorization No. 2 would be prepared at a later date for the actual construction services cost. He recommended to Council that they approve contract amendment No. 1 to Work Authorization No. 2 in the amount of \$140,000.00.

Mr. Bolton commented that there is a lot of paperwork being generated because of the stimulus loan. He asked Council's permission to allow him to sign the administrative paperwork instead of having it all go to the Mayor to be signed. He asked that this be included in the motion. Mayor Abell had no problem with the request.

Mr. White made a motion to approve Amendment No. 1 to Work Authorization No. 2 for the Deep Injection Well Storage Reservoir (Tank) and Pumping Station at the Water Treatment Plant, for an additional amount of \$140,000.00. He also made it as a part of the motion that Mr. Bolton has been given the permission from Council to sign the administrative paperwork (instead of the Mayor) that is being generated because of the stimulus loan. Mr. Fish seconded the motion and it passed unanimously.

B) Vision Implementation Plan Program Update

Mr. McGarry reported that he would be bringing the two neighborhood plans (Osceola Park and Original Town) to their next meeting for Council to review. The consultants will be at the meeting going over their recommendations.

8. CITY ATTORNEY'S MATTERS

Mrs. Fromang asked Mr. Vitunac to give them the status of the red light cameras being installed. She told Council that she asked Mr. Vitunac about the legal status of the law suits that have been filed because of the red lights. She expressed their concerns that they don't want to put in these red light cameras and then be sued.

Mr. Vitunac agreed with Mrs. Fromang. He said that there will be legislation meetings held concerning the red light cameras in December and he would like to see what the legislation outcome is. The company they chose to install the red lights was okay with waiting to see what is decided. He felt that they needed to move slow on this. He said that this was not uniform under some interpretations of the law.

Mr. Gabbard said that he would meet with the Police Chief and Mr. Vitunac on this matter tomorrow and make a recommendation to Council. He agreed with moving slow. Council agreed with staff in moving slow on this project.

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

1. Royal Palm Pointe Fountain – Debbie-Kay Whitehouse, Recreation Commission Chairman

This item was moved up and heard before Public Hearings at today's meeting.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Sabin Abell's Matters

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

Mayor Abell reported on the City of Vero Beach 90th Anniversary Party to take place on October 16, 2009 in Downtown starting at the Heritage Center from 5:30 p.m. to 8:30 p.m. He also reported that Coffee with the Council will be held this Friday at Riverside Theater.

3. Comments

B. Vice Mayor Tom White's Matters

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

Mr. White gave a lengthy report on his Beach and Shore Committee meeting.

3. Comments

C. Councilmember Debra Fromang's Matters

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

Mrs. Fromang reported on the Economic Development Council meeting that she recently attended.

3. Comments

D. Councilmember Bill Fish's Matters

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

Mr. Fish reported that he attended an MPO meeting and a recent Indian River County Commission meeting. He also attended the Treasure Coast Council of Local Governments meeting and the 911 Ceremony held at Veterans Memorial Island Sanctuary.

- 3. Comments**

E. Councilmember Kevin Sawnick's Matters

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

Mr. Sawnick attended a Christmas in Downtown meeting that was held this morning. He then asked Mr. White if there was anything that could have been done in order for him to vote yes in adopting the new water and sewer rates (item heard earlier in the meeting).

Mr. White explained that he voted no to the Resolution because he voted no to paying for the two new buildings at the water department. He could not look his constituents in the face and say that he approved a 36% increase.

- 3. Comments**

11. ADJOURNMENT

Mr. Fish made a motion to adjourn tonight's meeting at 8:00 p.m. Mrs. Fromang seconded the motion and it passed unanimously.

/tv