

**CITY OF VERO BEACH, FLORIDA
OCTOBER 6, 2009 7:00 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

Father Michael W. Edwards of St. Helen's Catholic Church gave the invocation.

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 pulled item 7-B) off of the consent agenda. She asked Council if they would consider moving item 7-A) up on the agenda "Discussion by Indian River County Commission Chairman Wesley Davis on Water and Wastewater Issues" and also allowing Lee Everett, Chairman of the Utilities Commission, to speak on the Utility Governance which is item 7-D) on the agenda after Commissioner Davis has finished speaking.

B. Proclamations

- 1. 90th Birthday of the City of Vero Beach**
- 2. Press Journal Day**

Mayor Abell read and presented both proclamations.

Mr. Lee Orr, Owner of Tropic Art & Frame, presented Council with the framed 90th Anniversary Poster.

C. Public Comment

Mr. Glen Heran talked about utility governance. He understands that Council intends to establish customers demand of equal representation on the Utility Commission by creating a Utility Authority. He felt that the use of the word utility authority is disrespectful to the memory of the late Representative Stan Mayfield who brought up local legislation that they ignored. Nor is this Utility Authority anything like the independent utility authority proposed by Stan Mayfield and Dr. Stephen Faherty. There is no less than 12 lines identifying the true power of the Utility Authority. He then read parts of the proposed Utility Governance Ordinance. He said that all they have done is change the name. He said that the Utility Authority will have no power and that the City Council retains all power.

Mr. Brian Heady noted that someone recently called him and said that saying liars, cheats and thieves is not nice and has a lot of negative overtones. He said that there are officials in office who lie and cheat. He gave an instance where there is lying, cheating and stealing from the public and it needs to stop.

Ms. Sherri Culizjak (spelling may not be correct) is currently a County resident on City utilities. She said that she was not planning on speaking tonight. However, when she went on line today and read the issues dealing with the new Utility Authority she felt that she needed to come forward to say that she believes their efforts are futile. As a County resident she feels cheated. She begged and pleaded with the City Council to look inside themselves and think of moral issues they have from taking this money from the utilities. If she was a City resident she would much rather have had her ad valorem taxes raised where she could deduct them from her taxes.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – September 15, 2009**
- 2. Special Call City Council Minutes – September 8, 2009**
- 3. Final Payment Request – Contract #1442 (Bid #450-08/CSS) – Airport Security Improvements – Ph2 – Summit Construction Management, Inc.; FDOT Project #409842-1-94-01/#405771-1-94-01**
- 4. Downtown Friday Street Closure- October 23, 2009**
- 5. License for Use of City Property – Holy Cross Catholic Church – Riverside Park Buffer Area**

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

***This item was moved up on the agenda –
7-A) Discussion by Indian River County Commission Chairman Wesley Davis on Water and Wastewater issues.**

Mr. Wesley Davis, Chairman of the County Commission, recalled that about three weeks ago, he met with the Mayor and some City staff regarding the utility issues. This prompted them (the County) to move forward to get some answers on the utilities (more

on the water, sewer and irrigation side of the utilities). It boils down to getting some answers on what is the best way to move forward. He didn't know if consolidation was the appropriate way to move forward, whether if leaving everything status-quo is the best thing that they can possibly do or whether to provide water and sewer and irrigation to the residents outside of the City limits from the Counties utilities. This is the nature of the meeting that they are having on October 15th at 9:00 a.m., at the Richardson Center. He wanted to come to tonight's meeting to stop some of the "he said, she said" rumors that have been going around. The City of Fellsmere has been added to their agenda because they are getting ready to enter into an agreement with the City of Fellsmere to provide utility services for the East side of I-95. At this point he has commitments from the City of Fellsmere, the Town of Indian River Shores and Indian River County and would love to have the participation of this City Council at the joint meeting to be held at the Richardson Center. He opened himself up to any comments, questions or criticism that the Council might have.

Mr. White noted that he now has a copy of their third revised agenda and it has review of the electrical agreement on it. Mr. Davis said that has been removed from the agenda. Mr. White explained to Mr. Davis that what concerns him a lot is that they agreed on both the City and County staff meeting in order to come up with information regarding the cost factors. When all of these things were worked out is when he thought that there would be a joint meeting to go over those things. He thinks that this meeting is premature. The City is not ready for it. He did not understand what they were going to discuss at this joint meeting unless it has something to do outside of the franchise agreement which doesn't expire until after 2017. Mr. Davis said that these are very good points. He is coming up to speed on the franchise agreements. He said that they are not in a rush but he does think that at this meeting there will be an opportunity to address questions that are being asked. He said that this was the only way that he knew to move forward. He said that if the Council is not interested in consolidation that he respects their autonomy. If this is how Council feels then it keeps him from wasting any time and resources on the County's behalf to get answers for the residents on the Southern barrier island. He said that they need to be able to answer the question that if what they are doing today is the most effective solution form of providing water, utilities, irrigation to those residents. If it is not, then what is it going to cost. He does not know this. He may be back in these Council Chambers next year saying let's renew this franchise agreement because it is simply the best that they can do. He said that is an answer, but he does not know if it is the proper answer. He said that he needs to be able to look these residents in the eye and say that the studies have been done and the studies show that the City of Vero Beach is doing the best that they possibly can for the residents of Vero Beach and the unincorporated areas of Indian River County. Mr. White brought up the comment made by Mr. Davis "he said, she said", over the last few months they have had a few things come up. He said that the County has collected a lot of impact fees from different developers. They have built capacity in their sewer and water plants and they need to sell that capacity (need customers) so that they can make it pay for itself. They figured if development picks up again, instead of charging more impact fees, they would raise the rates and meet the capacity for the people who already have paid. He was wondering if this was a takeover. Is this something that they want and then the City residents will be

subject to any increases by the County if this should happen. Mr. Davis explained that he does not know how the City's impact fees are. He said right now the big issue that they have with the developers who invested their impact fees early (particularly with water and sewer) is they are getting a monthly bill of about \$18.00 a month per unit per month. What this means is that they are paying the fee for nothing that they are getting. If anything he would say the exact opposite scenario is happening. They have built the capacity that the growth that they have gone through and if anything, they are sitting in very good shape. It is not that they need customers; it is that they are charging individuals who have not moved forward with their developments. For the developers it is an issue, but it is one that the County has chosen not to back off on because the capacity is there. Mr. White was afraid that the City was not prepared for this meeting. They told staff to go forward and get all the information that they need so they can talk intelligently about this issue. He thought that this was the best way to do it. This joint meeting is too soon and they should wait until at least the middle of November. Mr. Davis responded by saying what Mr. White just said is exactly his point for wanting this meeting. He does not have enough information for a basis for action. This is not going to be a beat the City of Vero Beach up meeting. What he would like to know is simply yes or no, are you interested in looking at the opportunities for consolidation. If the answer is yes then he is willing to spend County resources in order to look into this and to be able to answer questions. If the City Council decides at the meeting on Thursday not to look into consolidating, then in his opinion it changes what the County should be spending County resources on. That is to look into the cost of what it would be to provide utility services to the residents outside of the City limits. He will come back to them with his hat in his hand and thank them for doing a good job if that is in fact where they wind up.

Mr. Charles Vitunac, City Attorney, asked if the County staff has prepared any studies relating to this issue yet. Mr. Davis said that the studies have been done. They have some facts based on the franchise agreements. He knows that the County has a decision to make because in year 2017 the franchise agreement is set to expire and they need to let the City know five years in advance as to what they are going to do. He would not be surprised after their meeting on Thursday if it doesn't take them a good nine months to be able to get the information in order to make an educated decision. He believes as a County that they owe it to the City to give them as much lead time in the event that there is a change. They also owe it to themselves as elected officials to be able to look into this as educationally as possible in order to make the right decision. He did not believe by having the meeting on Thursday was premature. Mr. Vitunac commented that Mr. Davis's staff has indicated that they have prices already for under the river crossings for South beach and they have other information that shows that it is a good idea for them to go ahead and do this. The City has not been provided with any of this information. Mr. Davis explained that they just got finished with a directional bore under the Indian River across the Wabasso Bridge, underneath the Indian River Lagoon and did a directional bore for utilities. This is the same river and about the same width which is why they have some hard figures. He said that if the City needs information from the County, then he would be more than happy to make sure that they are provided with this information.

Mr. Gabbard added that the City would like to just see what information the County has so that they can evaluate it. The sooner they get that information, then the sooner they can respond. He understood that according to the agenda they will have the opportunity to make some sort of presentation. He recalled a meeting that he attended where Mr. Solari was present and he showed them the presentation that Mr. Olson, County Utilities Director, presented to the City Utilities Commission. He said that there was not too much in the presentation other than the general concept and some dollar figures. According to the agenda for Thursday's meeting they will have an opportunity to make some sort of presentation and the only thing we could say is about our franchise agreement. He told Mr. Davis if he was asking the Council to make a decision as to whether or not they want to move forward, he does not think they have enough data to make that decision. He asked to be able to look at their Power Point presentation and any other information that the County will be referring to if it would help them in answering some of their questions and making a much more informed decision. Council agrees that if consolidating makes more sense to the people that they serve then there would not be any reason not to consider it. Having this meeting set up so soon totally took them by surprise. He said that the City is not prepared because these are highly complicated issues.

Mr. Davis reiterated the only thing that he is asking is if Council has an interest in exploring consolidation. He doesn't want to get into the end of a study and lay out the options and then the Council says I don't know why we did this because we were not in favor of consolidating in the first place. All he is asking them to do is make a decision that they want to consolidate if it has a favorable outcome.

Mr. White told Mr. Davis that they could give him that decision tonight.

Mrs. Fromang said that they would need an outside consultant separate from staff. She said if all are in agreement, then they should move forward with a report. She was interested in the wastewater and then the water came out of the blue. She said if they all agree that it is in the best interest for everyone, then they should order (without having a meeting) a report.

Mr. Davis agreed with Mrs. Fromang that they do need a report. He said if they are going to move forward with this then they should have this meeting and look at hiring an outside consultant to get this information.

Mr. White felt that the City, Indian River Shores and the County should all have separate meetings and decide if they want to move forward or not. After that has taken place they would have the information that they need to move forward. He felt that the meeting scheduled for Thursday was a waste of time.

Mr. Davis disagreed with Mr. White. He said that the decision that the County makes affects the City of Vero Beach.

Mr. White said that this Council cannot sit here and say that they need to consolidate these utilities with the County without discussing it first.

Mr. Davis reiterated that it was not a vote to consolidate, but it is a vote as to whether or not they would like to consider consolidating.

Mr. White told Mr. Davis that they can give him that decision tonight. Mr. Davis said if that is the case then this Council doesn't need to show up at the meeting on Thursday.

Mrs. Fromang commented that the franchise agreement was going to be a decision of the County on whether they want to extend the franchise agreement with the City to continue offering services. She could not understand how this could be done without having financial information. Mr. Davis said that they would need to have a study done, but there is no reason for the study if the City is not interested in consolidating.

Mayor Abell stated that the City and County staff need to meet on this and until they get together and come up with the facts and figures, then the County doesn't have any information. He thought that the City had more information about what they are doing than the County does about what they are doing. To hear a figure that has been expressed (approximately 38 million dollars) for them to go out to a County facility doesn't make any sense to him. He assumes from what he has been told that the City of Vero Beach is being expected to pay for this. The City of Vero Beach has seen a presentation for a state of the art facility that would cost about \$50 million dollars. He clarified another issue. A couple of years ago they expressed an interest in supporting a partnership with the County and they received no interest from the County. They even mentioned in a public meeting that there was a real possibility that the County needed to have some capacity and the City and the County could look into this new facility with some sort of partnership. They received nothing back from the County on this discussion which occurred two years ago. What they are looking for is some facts and figures and until that information is provided he did not know of any way to have a legitimate discussion. If all they are looking at is partnering then that was what was expressed two years ago. Again, his concern with having the meeting is that they don't have the figures.

Mr. Davis said that what he is hearing is that they are not moving fast enough and that they are moving too fast. He doesn't know what the resistance here is. He was told by some of the Council members that there was none. He expressed that he cannot give direct orders to staff to do anything without getting direction from the County Commission. He was told that was the way that it works in the City.

Mrs. Fromang expressed that they have already voted to have City staff meet with the County staff.

Mayor Abell asked Mr. Davis if he has facts and figures that the City is not aware of. Mr. Davis said that he does not. His intent in having this meeting was to get together and find some direction and to move forward.

Mr. Gabbard stated that one of the things that Council has recognized from day one is that they are going to have to have some sort of outside consultant do an in depth study. They all agree that this is a matter of huge importance to the entire County. They have agreed to share the costs to hire a consultant if that is the process that takes place. They want to be involved because they understand the importance of the issue and their stake as well as the County's stake in it. He said that the City is not trying to hold anything up. He said that everyone was taken by surprise as to the speed that this meeting was decided upon and he is not sure what the purpose of the meeting is. He then expressed that the franchise agreement is not up until 2017 so they have a little time here.

Mr. Davis told Mr. Gabbard that he has summed up what he would like to get accomplished at the Thursday meeting. He also said that they need to decide as to what direction they intend to go as far as the franchise agreement stands.

Mayor Abell added that when someone else was Chairman of the County Commission and this information was brought out a couple of years ago, the Chairman of the Commission at that time called him and asked him if they were nuts because they do not have any capacity for the City. He understands at that time there was a capacity issue because there was all this building going on in the County.

Mr. White asked what is so hard with postponing this meeting for one month so we can be better prepared.

Mrs. Fromang referred to the agenda. She needed to know what the County was presenting as cost impacts so that they can be prepared to present theirs. She suggested changing the agenda and requesting an independent study be done.

Mr. Davis told her that is where he would like the meeting to wind up. The important part of this meeting is about getting some answers on which way to move forward. He said that if there is anything that Council would like to add to the agenda, to please do so.

Mr. Gabbard asked Mr. Davis if he would provide them with copies of whatever documents that the County has so that they can look at them before Thursday's meeting.

Mr. Vitunac followed up on Mrs. Fromang's suggestions that if you don't want to spend money on consultants then have both staff get together and form a Committee to sit down and work out a proposal as to what they think is feasible. Then they would bring it back to the various bodies and then an outside consultant would be hired to verify what the Committee has said.

Mr. Davis expressed that he was not after them to make a decision, just a consensus to move forward. He is hesitant not to be able to accomplish this in a joint meeting between the different municipalities being served by the City of Vero Beach.

Mr. Vitunac asked Mr. Davis if he would be happy with a motion tonight. Mr. Davis told him that was fine, but the meeting was still going to take place.

Mr. Sawnick felt that they all agreed that they were going to look at anything that would possibly help out the City and County ratepayers. He agreed that all the municipalities and the County should be meeting quarterly to discuss things. He said that without the figures they cannot make any further decisions, other than what they did just now.

Mr. Fish recalled that he appeared before the County Commission meeting within the last month and spending a lot of money to accomplish what they already have does not sound like it is cost effective. Is he hearing from Mr. Davis that he wants to modify the agreement that they already have.

Mr. Davis made it clear that he does not want to modify any agreement. He would like to have enough information to make an educated decision on the franchise agreement in 2012.

Mrs. Fromang recalled the report that they had done a couple of years ago. It was done in 2007 to create a Plant different than what they currently have. She told Mr. Davis that he needs to have a copy of that report.

Mayor Abell gave Mr. Davis an assignment which was to come loaded with facts and also give them time to read the material that the County has. Mr. Davis stated that he would see to it that Council has everything that they have by tomorrow morning. His intent of this meeting is not to make anyone look bad.

Mr. Everett had to leave the meeting and will submit his thoughts in written form.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, requested by Kite Miracle Mile, LLC, to amend the Comprehensive Plan Future Land Use Map by changing the Land Use Designation from RH, Residential High (up to 15 dwelling units/acre) to C, Commercial (up to 15 dwelling units/acre) for the property located generally between 20th Place and 20th Street and US 1 and 6th Avenue, including a portion of Tract A of replat of Park View Subdivision and a portion of Block 1, Oak Park Subdivision, containing 2.15 acres, more or less; and providing for an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. Tim McGarry asked Council to consider this Ordinance in conjunction with item 3-B) on the agenda. Mayor Abell then read the title on 3-B) and told Council that they could discuss the Ordinances together but a separate motion for both item 3-A) and item 3-B) would need to be made.

- B) An Ordinance of the City of Vero Beach, Florida, requested by Kite Miracle Mile, LLC, to amend the Official Zoning Map by changing the Zoning designation from POI, Professional Office, and Institutional (+2.15 acres) and C-1B, General Commercial Trades and Services (+0.41 acre) to C-1, Highway Oriented Commercial, for the property located generally between 20th Place and 20th Street and US 1 and 6th Avenue, including a portion of Tract A of replat of Park View Subdivision and a portion of Block 1, Oak Park Subdivision, containing 2.56 acres, more or less; and providing for an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. McGarry explained that this is for the property located between 20th Place and 20th Street and US 1 and 6th Avenue, comprising of approximately 2.15 acres. This area of the City contains commercial, professional office, medium density multiple family and single-family residential zoning districts. Specifically to the north and east of the subject property, across from 20th Place and 6th Avenue, are developed sites containing general commercial, banks/financial institutions, and office uses, which are zoned C-1B, General Commercial Trades and Services. To the south and across 20th Street and 6th Avenue, is a large developed site that includes Osceola Magnet School and to the east, a single-family residential subdivision, which is zoned R-1, Single Family Residential. To the west and across from 20th Street is a developed site containing a professional office, which is zoned POI, Professional Office Institutional and C-1B, General Commercial Trades and services. The requested land use amendment and zoning district is compatible with the surrounding area and is consistent with the goals, objectives, and policies of the Comprehensive Plan. Located in an area suitable for commercial uses, the property meets applicable criteria to be designated C, Commercial on the Future Land Use Map and to be rezoned to C-1. Staff and the Planning and Zoning Board support the request.

Mr. Jim Bitter, Kimley Horn & Associates, applicant in this case, stated that he had no formal presentation, but was at tonight's meeting to answer any questions that Council might have.

Mr. Fish asked what is the white diagonal line that is going through the property. He was told that is westbound State Road 60.

Mr. White asked if the neighbors had been notified about this change.

Mr. McGarry answered yes. He also said that the property had notices posted on it and prior to the Planning and Zoning Board meeting the neighbors, were notified of their meeting.

Mayor Abell opened the public hearing at 8:15 a.m.

Mr. Brian Heady stated that the bottom line is if the Ordinance is approved, it will increase ad valorem taxes and provide job opportunities. He recommended that the Ordinance be approved.

Mayor Abell closed the public hearing at 8:16 p.m., with no one else wishing to be heard.

Mr. Sawnick had two concerns. The first one was Rita's Italian Ice and the other concern was that there was a school so close to the hotel. He hoped that Rita's would be able to find another location in the City and he couldn't think of another hotel located so close to a school, but agreed that this was a good location for this hotel.

Mayor Abell asked for a motion for item 3-A) – 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.

Mayor Abell asked for a motion for item 3-B) – 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.

- C) 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 stated that this was the last of the two required public hearings for this Ordinance. The original text proposed by the applicant was reviewed by City staff and they made revisions to it and the applicant agreed to the revisions. 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.

Mayor Abell opened and closed the public hearing at 8:22 p.m., with no one wishing to be heard.

Mr. White understood that they could not do spot zoning. However, he still felt very strong that he didn't want to open this door. He voted against the Ordinance when it was heard on first reading to send it to a public hearing.

Mr. Fish expressed that this was a very large building.

Mr. McGarry commented that it is very difficult to get POI zoning in the City of Vero Beach.

Mr. Fish said that the point he was making was that if this POI zoning was going to go in any other area, that it would have to be on a big piece of property. Mr. McGarry agreed with him and said that the only other piece of property that this would fit into would be a piece of property on 17th street (next to the property that the City owns). He said that POI zoning was never intended to be large lot zoning.

Mr. White asked how many trips will be made in this residential neighborhood.

Mr. McGarry explained that the number of trips for health and fitness clubs is similar to a medical office.

Mr. Fish made a motion to approve the Ordinance. Mrs. Fromang 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.

D) A Resolution of the City Council of the City of Vero Beach, Florida, adopting the “Osceola Park Neighborhood Enhancement Strategies” and the “Original Town Neighborhood Enhancement Strategies” and directing the City staff to consider, as part of the City’s Evaluation and Appraisal Report Process, the incorporation of these strategies into the City’s Comprehensive Plan.

Mayor Abell read the Resolution by title only.

Mr. McGarry explained to Council that the Resolution that they have before them is to adopt the Osceola Park Neighborhood Enhancement Strategies and the Original Town Neighborhood Enhancement Strategies and to direct staff to consider as part of the City’s Evaluation and Appraisal report process, the incorporation of these strategies in the City’s Comprehensive Plan. Both plans were prepared by Land Design Innovations and Land Design South. There was also an historic study done by Anna Brady. He said that both plans have been presented to the Architecture Review Commission and the Historic Preservation Commission. Both Commissions gave their approval of the plans. He commended the consultants on the good job that they did on the plan.

Mr. Brad Curry, Consultant from Land Design, thanked Council for allowing him the time to present the two neighborhood plans. He presented the major findings of the plans and gave a brief Power Point presentation.

Mrs. Linda Hillman, President of Original Town Neighborhood, thanked everyone for all their help in getting them to where they are now.

Mrs. Vicki Gould, President of Osceola Park Neighborhood, commented that they (both neighborhoods) feel that they have a vision for their neighborhoods and with this plan, it will help them carry out this important strategy.

At this time, both Mrs. Hillman and Mrs. Gould went through a short Power Point presentation.

Mayor Abell opened the public hearing at 8:55 p.m.

Mr. Daniel Fourmont, President of Mainstreet Vero Beach, reported that both Mrs. Hillman and Mrs. Gould have agreed to be members on the Mainstreet Vero Beach and they look forward to working with them.

Mr. Peter Jones expressed that Mainstreet Vero Beach believes that these plans are good for everyone. He also said that the American Institute of Architects have an interest in these neighborhood plans and one of their members, Tom Cooper, asked him to read a letter into the record (attached to the original minutes).

Mrs. Debra Atwell, Chairman of the Historic Preservation Commission, read the report and recommendations of the City of Vero Beach Historic Preservation Committee (attached to the original minutes). The Committee unanimously approved both plans when they were brought before them at a recent meeting.

Mr. Ken Daige thanked the neighborhood Presidents and City staff for helping to get these plans completed. He said that there were a number of people who could not be at the meeting tonight but are in agreement with the passage of the Resolution. He would appreciate it if Council would adopt the plans.

Mrs. Debra Daige also thanked everyone who made this possible. She expressed that there have been so many people who have worked hard to get to this point.

Mayor Abell closed the public hearing at 9:11 p.m., with no one else wishing to be heard.

Mr. Fish noted that he walks both of those neighborhoods and they are very different from each other from an architectural standpoint. He said from Original Town there is no decent railroad crossing so he approached Mr. Falls who talked to the Florida Department of Transportation to look at this. The problem has been fixed so this will help the neighborhood.

Mr. Sawnick stated that the plans look great and he is looking forward to implementing the plan in the next few years.

Mr. White thanked everyone for their time and effort. He said that without people like Mrs. Hillman and Mrs. Gould continuously pushing, it would never have gotten done.

Mr. White made a motion to approve the Resolution. 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.

Council took a short break at 9:14 p.m.

E) Major Community Local Planning Issues for Evaluation and Appraisal Report for the City of Vero Beach Comprehensive Plan

Mr. McGarry explained that as a preliminary step in the EAR preparation process, the City of Vero Beach needs to identify major local community planning issues that the City will address, which are in addition to the requirements required by the State and the general updating of the Comprehensive Plan. Once the major list of major community planning issues have been approved by the City Council, the City will request DCA to approve the list in a Letter of Understanding. The proposed major local community planning issues for investigation of the Evaluation and Appraisal Report for the City of Vero Beach Comprehensive Plan are: 1) Neighborhood Preservation and Stabilization; 2) Miracle Mile, Downtown, Royal Palm Pointe, and Ocean Drive/Cardinal Drive, and Beachland Boulevard Commercial Districts; 3) Mixed Use Land Use Designation; 4) POI Zoning District; 5) State Route 60 (Twin Pairs) and 6) Housing. Staff recommends that the City Council approve submittal to DCA by the Planning and Development Director of the list of major local issues, which will form the basis for a Letter of Understanding between the agency and the City.

Mayor Abell opened and closed the public hearing at 9:35 p.m., with no one wishing to be heard.

Mr. White asked if there would be any changes to the twin pairs (widening of lanes, bike paths, etc.).

Mr. McGarry stated that there is only so much that you can do at this late stage. He said that they need to look at it, but he didn't know if would ever be changed back to the way that it was. He said that he doesn't foresee that happening. He said what they may do is reduce some of the lane widths to slow traffic down.

Mr. White recalled that they were told by the Florida Department of Transportation (FDOT) that if they wanted to change things, they would be glad to give the road back to the City which means they would be responsible for maintaining the road and they cannot afford to do that.

Mr. Sawnick made a motion to approve the major Community Local Planning Issues for Evaluation and Appraisal Report for the City of Vero Beach Comprehensive Plan. 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.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) **A Resolution of the City of Vero Beach, Florida, recognizing the “Building Citizenship in the Community; Back to Basics” initiative of the Florida League of Cities, Inc.; and Pledging Support for this Statewide effort.**

Mayor Abell read the Resolution by title only.

Mr. White made a motion to approve the Resolution. 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.

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

- A) **An Ordinance of the City of Vero Beach, Florida, amending Article II, “Boats,” Section 46-34, “Sunken, Abandoned, Wrecked or Derelict Vessels”; 46-35, “City Property”; 46-37, “Vessel Operating Restrictions”; Article III, “Municipal Marina,” Section 46-61, “Operation”; 46-62, “Definitions”; Section 46-63, “Permit Required”; 46-64, “Application Procedures for Permit”; 46-65, “Termination of Permit”; 46-66, “Fees”; 46-67, “Marina and Anchorage Regulations”; of the Code of the City of Vero Beach.**

Mayor Abell read the Ordinance by title only.

Mr. Tim Grabenbauer, Marina Director, reported that this Ordinance would make revisions to Chapter 46 (Marine activities, Structures and Facilities) of the Code. The updated Marina Regulations would remove a rule on Commercial Operators not being provided space in the Marina. At a recent Marine Commission meeting, he received unanimous endorsement for a one (1) year trial period. He worked with the City Attorney’s office in bringing these sections of the Code up to date.

Mr. White made a motion to approve the Ordinance on first reading and set the public hearing for October 20, 2009. 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.

6. CITY CLERK’S MATTERS

1) Reappointments to Commission/Boards

Airport Commission

Mrs. Barbara Drndak’s term on the Airport Commission expires on November 15, 2009. She wishes to be reappointed.

Mrs. Fromang made a motion to reappoint Mrs. Drndak to the Airport Commission. Mr. White seconded the motion and it passed unanimously.

Board of Adjustment

Mr. David Jones' term on the Board of Adjustment expires on November 15, 2009. He wishes to be reappointed to the Board of Adjustment.

Mr. White made a motion to reappoint Mr. Jones to the Board of Adjustment. Mrs. Fromang seconded the motion and it passed unanimously.

Code Enforcement Board

Mr. Kirk Noonan, Mr. James Richardson and Mr. Wayne Bibeau's terms on the Code Enforcement Board expire on October 15, 2009. All three members wish to be reappointed to the Code Enforcement Board.

Mr. White made a motion to reappoint Mr. Noonan, Mr. Richardson and Mr. Bibeau to the Code Enforcement Board. Mrs. Fromang seconded the motion and it passed unanimously.

Marine Commission

Mr. Michael McLaughlin and Mr. Alan Klotsche's terms on the Marine Commission expire on October 15, 2009. Both members wish to be reappointed.

Mr. White made a motion to reappoint Mr. McLaughlin and Mr. Klotsche to the Marine Commission. Mrs. Fromang seconded the motion and it passed unanimously.

Planning and Zoning Board

Mr. Mark Mucher, Mr. Robert Sammons, Mrs. Connie Pease, and Mr. Cliff Norris's terms on the Planning and Zoning Board expire on October 15, 2009. The members all wish to be reappointed to the Planning and Zoning Board.

Mr. White mentioned that Mrs. Pease has missed five (5) meetings and because of her health, he was not sure that she wanted to remain on the Board. He suggested holding off reappointing her until they know for sure that she wants to continue serving on the Board.

Mr. White made a motion to reappoint Mr. Mucher, Mr. Sammons and Mr. Norris to the Planning and Zoning Board. Mrs. Fromang seconded the motion and it passed unanimously.

Recreation Commission

Mrs. Tracy Carroll, Dr. Daniel Stanley and Ms. Bea Gardner's terms on the Recreation Commission expire on November 15, 2009. All three members wish to be reappointed to the Recreation Commission.

Mr. White made a motion to reappoint Mrs. Carroll, Dr. Stanley and Ms. Gardner to the Recreation Commission. Mr. Fish seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) Discussion by Indian River County Commission Chairman Wesley Davis on Water and Wastewater Issues

This item was moved up on the agenda.

B) Rotary Nautical Bazaar

This item was pulled off of the agenda at the request of the applicant.

C) Bay Drive and River Drive Bridge Replacements – Construction Phase Services

Mr. Monte Falls, Public Work's Director, reported to Council that this proposal is from Bridge Design Associates, Inc., for construction phase services during construction of the bridges located at Bay Drive and River Drive in the amount of \$93,537.00.

Mr. White made a motion to accept the proposal from Bridge Design Associates, Inc., for the construction phase service for the Bay Drive and River Drive Bridge Replacements, in the amount of \$93,537.00. Mrs. Fromang seconded the motion and it passed unanimously.

Mrs. Fromang asked Mr. Falls to give an update on Humiston Park and tell them who is actually doing the work.

Mr. Falls explained that Ocean Park is actually doing the Humiston Park improvements with close supervision from the City. The City is making sure that all of the standards are being met and that they are getting fair market price on the work that is being done. He said that the entire project should be completed before the first of the year.

D) Utility Governance

Mr. Gabbard wanted clarification from the Council as to whether or not they wanted to attend the joint meeting with the County on next Thursday.

Mrs. Fromang commented that Mr. Davis said that they were going to have the meeting with or without them. They really don't have a choice but to go and make sure that our questions are answered.

Mayor Abell commented that he has been waiting for two years to get some questions answered. He agreed with going to the meeting to get some of those questions answered.

Mrs. Fromang asked what specific questions are going to be asked. She wants to know what they are so that when she gets to the meeting she is prepared.

Mr. Gabbard reported that he has already scheduled meetings this week with the department heads and then he will meet individually with each Councilmember. If they have any questions that they would like to ask to let him know. He said that staff certainly has a number of questions that they would like answered. Also, Mr. Davis said earlier in the meeting that he would have all the documentation to them in the morning and he will try to get a packet to them in the afternoon so that they also have the information.

Mrs. Fromang asked who will be asking the questions.

Mr. Gabbard commented that they are at a disadvantage because they don't know what the format of the meeting is going to be. He said that when it gets to be their turn, someone from staff will ask some questions and make some comments. Also, from his conversations with Mr. Davis, they want to hear what Council's comments are.

Mr. White felt that they needed to be a little sensible as to what they were doing. He said first of all, they just approved all kinds of money for the deep water injection well and now with this investment, they should not be talking water and reclaim water with the County. He thought that the only thing that they were looking at was wastewater.

Mr. Gabbard said this might be the time to make that message clear to the County.

Mr. Rob Bolton, Water and Sewer Director, brought up new legislation and that EPA is about to pass some things that will affect the State of Florida. However, when they put their deep injection well in, they will be exempt from these things that EPA is looking at passing. He said by putting in this deep injection well, it is going to stop any future regulations that they would need to meet. He said that these future discussions that they are about to have are not something that they will need to make a decision in a weeks time. He said that this is a long process and not something that we need to be making quick decisions on. Taking small steps in this process is smart and the way that Council should go.

Mayor Abell said that those Councilmembers that want to go to the meeting can and those Councilmembers who don't want to go don't have to.

Mr. Vitunac explained that if this is going to be a Special Call meeting, then they have to make it official and advertise it.

Mr. Sawnick made a motion that as a Council they will be at the Special Call meeting. Mrs. Fromang seconded the motion. The motion passed 3-2 with Mr. Fish and Mr. White voting no.

Mr. R.B. Sloan, Director of Utilities, gave some background on how they have gotten to where they are today. He said that in March of 2008 they developed an action plan to address a number of issues having to do with governance. Their action plan was to look at governance issues and come up with a rate study. Then you gave the City Manager authority and asked me to facilitate an in depth study to review the structures of Utility Authorities in Florida and identify the advantages and disadvantages of those authorities. From that there were a series of meetings that took place (five meetings in total) ending on December 16, 2008. There were two meetings to talk about the issues that needed to be addressed, the third meeting was a meeting of industry experts, and the fourth meeting was dedicated solely to public input and the fifth meeting was to try to arrive at a report. Out of all those meetings, they identified six areas that needed to be addressed. During these meetings there was an opportunity for the public to make presentations and comments. There were eleven people at those meetings to make either comments or presentations. In January of this year they presented their findings to Council and from that you directed the City Manager to come up with some sort of report to come back to Council in the way of recommendations. This has been circulated to the Council and to the Utilities Commission. He has asked Mr. Barry Moline who participated in all but one of those meetings and has been a resource to the City on some of the ins and outs of an authority to speak to Council tonight. He then introduced Mr. Barry Moline, who is the Executive Director of Florida Municipal Election Association.

Mr. Moline stated that this issue is about creating a Utility Authority with the responsibility to oversee governance of the electric, water, wastewater systems in Vero Beach. A majority of their utility customers are outside of the City limits and by creating this authority, it would give those customers representation of all the utility operations. He said what they are doing is somewhat unusual. There are only six electric utility authorities in Florida and this proposed Ordinance would provide the most representation of any electric utility in Florida. Some have said that the structure of the Utility Authority is no different from Councils' current control. He made it clear that was not true. He briefly outlined some of the characteristics of the Utility Authority (Ordinance on file in the Clerk's office). He emphasized that issue because it is so important. He said that this body, City Council, will be able to endorse or reject action on matters presented to them by the Utility Authority. If this Ordinance is passed, the appointed representatives will probably operate the utilities as Council sees fit. But in the rare case when action has taken place that is inconsistent with what Council thinks and not in the best interest of their community, they can seek a different answer from the Utilities Authority and then send it back to them for additional work. The other thing unusual, is nationwide for cities the size of Vero Beach, 98% of all cities limit with customers outside of the City limits provide no representation to those out of city customers. This Council would be among the two percent taking that initiative to provide some representation. He then went through the components of the proposed Ordinance. One

thing that needs to be changed in the proposed Ordinance is that it currently states that the At Large Member be an electric customer and he thought that staff wanted to recommend that be just a utility customer and not just an electric customer.

Mayor Abell asked Mr. Moline to tell them what he observes about their situation at this point. He asked are they doing things right and what does he think.

Mr. Moline expressed that from the very beginning, this was about representation. Staff has met with a lot of members of the public concerned with representation. He said that representation was the key issue. He thinks that staff has done a great job in pulling this information together. It is a good compromise that provides representation to the outside customers.

Mr. Fish recalled that at a meeting he attended, Dr. Faherty asked the City Attorney who owns the Power Plant. Mr. Vitunac told him the citizens of Vero Beach own it. He is comfortable with this proposed Ordinance.

Mrs. Fromang asked if staff has been in touch with any of their legislatures and do they feel that this Utility Authority is acceptable.

Mr. Gabbard reported that he met with Debbie Mayfield and Ralph Poppell. He spent some time with Debbie Mayfield explaining this document to her and asking her for input. He has not heard anything back from her. Their agreement with her is that she was going to pursue legislation to force them to create a Utility Authority or to in some way pass some State legislation designed to force them to relinquish some control of the utilities. She said that she would not do that if they put together a meaningful Authority. He went over what the proposed legislation said that was proposed by Mr. Mayfield. The City of Vero Beach would create a Utility Authority to govern authority without any conditions. They have created the authority with this document and believes that they have kept their end of the bargain. Mr. Poppell also indicated that he was interested in some sort of legislation if they did not do this Authority. He was pleased that they had kept their word. They told him that sometime in November they would have this document prepared for the Council to vote on. He expressed to Council they were not looking for them to vote tonight.

Mr. White asked if the County pulls their franchise agreement in the next seven years for the electric, water and sewer, would they be able to dissolve this Authority and just go back to a Utility Commission like they used to have.

Mr. Vitunac told him that they could do that.

Mayor Abell has been thinking a lot more about the makeup of the representation. One thing everyone needs to remember is that this is a City asset and they need to protect their City asset. He said that they already have a unique situation in the State of Florida with having more representation of County residents than City residents on their Utility Commission. He is in favor of continuing this.

Mr. Gabbard said he will make the necessary changes to the Ordinance and bring it back to Council on first reading.

Mrs. Fromang suggested that it be put on the next Utility Commission agenda for their input.

Mayor Abell felt that there was no question that they will be obligated to provide reasonable expenses to the members on this Utilities Authority. There is also one person who he talked to that felt that there should be some compensation. He thought that also needed to be looked at.

Mr. Moline added that there are cities across Florida who don't have electric utilities that try to create utility authorities. He said that people are unhappy for many different reasons. He said that one of the big concerns in a lot of other cities is reliability.

Mr. Fish questioned if they will have to decide who gets the one year and who gets the two year appointments. Mr. Vitunac told him yes.

Mr. Gabbard thanked Mr. Moline for all of his help in this matter.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

Mr. White commented that Council is continuously being questioned by the public about their utility bills. He has been reaffirming the public that on January 2010 they should start seeing a significant reduction in their bills because of the fuel charges. He said hopefully they will be looking at a 30% reduction. He reiterated that if anyone from the public has any questions or wants to have an energy efficient audit of their home done that they need to let the City know.

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Sabin Abell's Matters

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

B. Vice Mayor Tom White's Matters

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

Mr. White reported that he attended a Treasure Coast League of Cities meeting, Coffee with the Council, a Beach and Shores meeting, a Florida Municipal Insurance Trust meeting and a Florida League of Cities Board meeting.

- 3. Comments**

C. Councilmember Debra Fromang's Matters

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

Mrs. Fromang reported that she attended a Tourist Development Council meeting and provided copies of the presentation that Dr. Saver gave at the last Treasure Coast Council of Local Government's meeting.

- 3. Comments**

D. Councilmember Bill Fish's Matters

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

Mr. Fish reported that he attended an Emergency Services Advisory District meeting and the Florida League of Cities Finance and Taxation Advisory Committee meeting.

- 3. Comments**

E. Councilmember Kevin Sawnick's Matters

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

Mr. Sawnick passed out a memo on the 2010 Indian River County Complete Census Count Committee (on file in the Clerk's office). He said that they are asking for some help from the City. He has talked to the City Manager about some of those things and was told by him that most of them could be accomplished. He said that Jeff Luther, Chairman of the Census Count Committee would like to come to the next City Council meeting and speak regarding promotion of the Census. Council had no problem with Mr. Luther speaking at their next meeting.

- 3. Comments**

11. ADJOURNMENT

Mr. Fish made a motion to adjourn at 10:52 p.m. Mr. White seconded the motion and it passed unanimously.

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