

**CITY OF VERO BEACH, FLORIDA  
MARCH 16, 2010 5:00 P.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

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

**B. Invocation**

Minister Steve Jones of Vero Christian Church gave the invocation.

**C. Pledge of Allegiance**

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

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mr. White requested that his item for discussion – “Discussion of Water & Sewer Rate Increases” be placed under Old Business so that action can be taken.

The Clerk requested that under Proclamations “A Day of Service” be added.

Mr. Abell wanted to discuss limiting the number of hours for their meetings to either three or four hours. He wanted to make a recommendation that they limit this meeting to three hours and adjourn at 8:00 p.m. He said the reason for this was because it is a long day for staff and he feels that they can get their business done in three hours. He made a motion to limit this meeting to three hours and adjourn at 8:00 p.m.

Mayor Sawnick asked if they could make that motion at this time.

Mr. Charles Vitunac, City Attorney, answered yes. He said that this is more of a procedural manner and if they decide that three hours is enough time to get their business done then they have the power to do that. He said if they are not done with their business in three hours, they might have to consider when they will continue discussing the remaining items (either the next day or at their next meeting).

Mr. White wanted to make sure that if they approve this motion that they are able to extend the meeting past 8:00 p.m., if they wish to do so.

Mr. Vitunac said that was correct.

Mr. White seconded the motion.

Mr. Daige referred to his matters and asked that his item – “Water & Sewer Rate Increase” also be placed under Old Business with Mr. White’s item, because both items are along the same lines.

Mr. White added that staff has been here all day and they are due a dinner break. He felt that there may be some legalities as far as keeping staff here after a certain amount of time. He said that they need to take staff into consideration.

Mr. Heady quoted what Mr. White just said, “ We are treading on legalities because staff doesn’t get dinner time” the legality of holding a public meeting in the public eye and conducting all of the business that they need to do does not seem to be a legality it seems to be important, at least to a couple of members. He thinks it is outrageous that this is even before them for a vote. He said whatever it takes to conduct the people’s business they (City Council) bought into that when they applied for this job. If they don’t like the number of hours it takes to do the public’s business then they probably should work somewhere else. He said that would include every single member of this Council and any staff member. He mentioned at their last meeting Mr. White made some comments that this is more like the “Heady hour.” He went back and viewed the meeting in question. It started at 9:30 a.m. and ended at 5:30 p.m. One of the big problems that other Councilmembers had was the number of items that he had on the agenda. He went back and timed the items that he had on the agenda. Mayor Sawnick interrupted Mr. Heady and told him that the motion on the floor is about whether to limit the time to 8:00 p.m. Mr. Heady told the Mayor that what he is doing right now is under discussion and he understands what the motion is. He intends to discuss the motion unless he is ruled out of order. He commented that this is part of the reason why their meetings take so long, because of constant interruptions. He asked the Mayor if he could continue. Mayor Sawnick asked him to please summarize his comments in the next minute. Mr. Heady did not know if he could do it in a minute, he will take whatever time it takes him to finish. Again, part of the problem is that the Mayor keeps interrupting. He probably could have been done by now if he hadn’t been interrupted. Mayor Sawnick told Mr. Heady that he may continue. Mr. Heady continued by saying that he went back and he timed last month’s meeting and his matters that were a great concern took one hour and six minutes of the meeting. He said of that one hour and six minutes, staff presentation took thirty-six minutes, which means his matters took all of thirty minutes. This is not about limiting the time of the meeting, this is not about staff having time for lunch or dinner, this is about limiting the public debate on issues that are important to the people of this community. This is about doing public business behind closed doors because they don’t like what is said out loud for public consumption.

Mr. White stated that they could not conduct business behind closed doors.

Mr. Daige stated that he was not going to support the motion for the following reasons: He would prefer to vote on it at the next meeting as far as limiting the time of the meetings. He concurs with Mr. White as far as the employees go, that they are due a dinner break. He said that is part of some of the contracts that they operate under. He said that if they are going to have evening meetings then he would recommend going back to 7:00 p.m. and they might need to limit those meetings to a certain time and then continue the meeting the next day. He feels more comfortable discussing this at their next meeting, so at this time he is not going to support the motion.

Mayor Sawnick agreed with setting their adjournment time for 8:00 p.m. and with his approval, if they need to, they can extend it if there are only a few matters left.

The motion passed 3-2, with Mr. Daige and Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed unanimously.

## **B. Proclamations**

### **1. Boys & Girls Club Week – March 22-28, 2009**

Mayor Sawnick read and presented the proclamation.

### **2. A Day of Service**

Mayor Sawnick read and presented the proclamation.

## **C. Public Comment**

Ms. Jane Howard referred to the Vero Man Site and said that they are sitting on top of one of the most exciting things to happen in Vero Beach. She thanked the Council for what has already been done and commented that this might put Vero Beach in the history books.

Mr. J. Rock Tonkel looked at the agenda and didn't see Mr. Gregg and Mr. Little's offer and was wondering what Councils' intent was.

Mayor Sawnick told him that at this time it is on hold.

Mr. Tonkel continued by saying that he listened to the discussion about limiting the meeting to 8:00 p.m. He felt that sends an incorrect message to the citizens. He said they should be encouraging public participation. He said that this was an artificial means to cut off serious debate.

There was applauding from the audience after Mr. Tonkel spoke. Mr. Heady stood up and applauded. Mayor Sawnick asked him to refrain from applauding. Mr. Heady answered no sir.

Ms. Jeannette Coppertone (spelling may not be correct) begged Council to not raise their electric, water, and garbage rates any more. She said please consider the people who are on a limited income.

Ms. Susan Granpierre thanked Council for protecting the Vero Ice Age Site. She explained that she was involved with the Vero Ice Age Site Committee, who will be working with the Historic Preservation Commission in moving forward on this great community project.

Mr. Daige provided the Clerk with some information concerning the Vero Ice Age Site and asked her to make copies for the City Council.

Mr. Joseph Guffanti didn't have enough time to explain to the lady who spoke earlier why all the fees are going up in the City of Vero Beach. He said that for years the City's finances have been totally mismanaged. In the past they have borrowed heavily so that prior Councils' could make themselves look good as if they were keeping taxes down.

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

Mr. Daige pulled item 2D-3) off of the consent agenda.

Mr. Heady pulled items 2D-1, 2, 3, 4, 5, 6, and 7 off of the consent agenda.

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

The items pulled off of the consent agenda were discussed at this time instead of moving them to City Manager's Matters.

#### **1. Regular City Council Minutes – March 2, 2010**

Mr. Heady wanted to make sure that Council had received a new copy of the minutes with the changes made to them. Council concurred that they had.

Mr. White made a motion to approve the March 2, 2010 City Council minutes. Mayor Sawnick seconded the motion and it passed unanimously.

#### **2. Clean Vessel Act Grant Agreement**

Mr. Heady noted that this is a grant awarding \$5,418.75 and as he looks through the paperwork he sees that there are a lot of requirements for the City. He asked if there

were any cost estimates that could be provided. He wanted to know how much it is going to cost the City to accept this money. He asked if there was any work involved.

Mr. Tim Grabenbauer, Marina Director, reported that there are several people at the Marina who are willing to volunteer to run the boat and perform the operation. He said that they are also permitted to go back under this program and request money for maintenance and labor if they need to later on. They are going to try to do twenty boats a day, three days a week. This grant money will be used for a portable waste pump out system to be used in the managed mooring field.

Mr. Heady asked Mr. Grabenbauer again if there was any estimate at all as to what this was going to cost the City.

Mr. Jim Gabbard, City Manager, explained that Mr. Grabenbauer would be managing the grant itself and there would be volunteers to help with the project. He will not be hiring any new personnel because of the project and the boat he is using is the old police boat.

Mr. Heady referred to the nine pages of requirements in the backup material. He just wanted to make sure that there was no additional money required from the City.

Mayor Sawnick asked Mr. Heady to wrap up his discussion in the next thirty seconds.

Mr. Heady reiterated that he wanted to make sure that the nine page requirements were not costing the City more than the \$5,418.75 grant money.

Mr. White made a motion to approve the Clean Vessel Act Grant Agreement. Mayor Sawnick seconded the motion and it passed unanimously.

### **3. Maintenance Memorandum of Agreement (MMOA) between Kimley-Horn Associates, Inc., and City of Vero Beach – SR Storm Drain Pipe**

Mr. Daige commented that usually when they pull an item off of the consent agenda it is placed under the City Manager's Matters. He asked if they have changed the way that they are going to handle the agenda in the future.

Mr. Vitunac explained that because of the last Council meeting being so long, the Mayor decided that they would hear the consent items under the consent agenda so staff would not have to wait until the end of the meeting for their items to be heard if they are pulled off of the consent agenda.

Mr. Daige said the way they are doing the agenda tonight has been changed. He asked if this has been voted on.

Mr. Vitunac said that this is a change from what they have done in the past. It is a procedural change, which they have the power to do or not do.

Mr. Daige said to his knowledge that policy change has not been put into place. He would continue moving forward with the way they have been doing business because there has not been any policy change made. He wanted to see this put on their next agenda under New Business to make this policy change.

Mr. Vitunac explained that the Ordinance addresses items taken off the consent agenda must be heard by Council, but it doesn't say where the item has to be placed. He said if Council objects to the way that the Mayor has done this then they could challenge his decision.

Mr. Daige had no problem handling it this way tonight as long as they make it a policy change at their next meeting.

Mr. Daige asked if there would be direct discharge into the Indian River Lagoon.

Mr. Monte Falls, Public Work's Director, explained that there will be indirect discharge into the Indian River Lagoon. He said that the storm water system for the Parc 24 site has an on-site storm water management system that retains the required amount of water for quality and quantity set forth by the St. John's Water Management District. Once that has been done and managed, the excess water is then discharged through the new outfall out to the Lagoon. In the system there are provisions that have been made for sediment retention so that there is no discharge of sediment into the Vero Isles canal and the water quality meets the standard set forth by the regulatory agencies.

Mr. Daige asked that in the event that sediment does go through and after an inspection is done and sediment is found and must be removed, who pays for the removal.

Mr. Falls stated that for the sediment to get there, the way that the system works and discharges once the retention pond has been filled to capacity the level of the water in the pond then goes up over a collection device and flows in from the top. So any sediment that would be in the water would have to be suspended in the solution of the water. He said that any maintenance that is required of this system would be the responsibility of the property owner.

Mr. Heady commented that the handling of the water on site is allowed within the original scope, but the installation of this conduit would then allow a rain event to discharge into the Indian River Lagoon. One of the things that they hear constantly is about the quality of the water in the Lagoon. He said that it seems to him that putting a direct line from this property, into the Lagoon, into the Intercostal is not something that they should be doing.

Mr. Falls explained that the water quality that is discharged to the Lagoon is managed by St. John's Water Management District. When the property owner developed the site, their legal positive outfall was the 23<sup>rd</sup> Street ditch was maintained by the City. He said that outfall is at or near capacity in many of the storm events that they experience. The developer of this property suggested that they build another outfall to handle their

discharge, which then freed up capacity in our outfall that serves the other properties. They took water that was previously being discharged to the ditch at 23<sup>rd</sup> Street and have lessened the likelihood of flooding in the 23<sup>rd</sup> Street ditch by the development of this outfall.

Mr. Heady mentioned that in 1992 there was a vision group that met at the college and one of the things that they discussed was the continual dumping into the Lagoon. He said for long term it sounded like a good idea, however there has been negative impact on the environment and on the Lagoon and the quality of water. At that workshop there was a lot of discussion about reversing the plan in draining the swamp and sending some of the water back inland.

Mr. Falls commented that he would gladly follow any direction about the Lagoon, but direction for water quality and quantity comes from the St. John's Water Management District.

Mr. Daige asked Mr. Falls that if in the future it is determined that something needs to be done about the quality of the water going into the Indian River Lagoon, will it be up to the property owners to come up with another plan. He just wants to make sure that this does not fall back on the City. He reiterated that in the future if there is a problem down the road that everything is covered.

Mr. Falls stated that if the Water Management District changes their regulations, the people that have valid permits would be grandfathered in.

Mr. Daige wanted it clear that in moving forward in the future that the City would not be financially liable for anything that goes wrong.

Mr. Falls did not want to say that. He said right now the Environmental Protection Agency (EPA), through the Clean Water Act is doing additional regulations that will cause all the cities and counties to do additional cleanup work of their systems.

Mr. Daige said when this project came to Council all of this was supposed to have been taken care of and then a redesign had to be done. He mentioned that with this redesign he still is concerned for the future of the City.

Mr. Falls was not familiar with any redesign that was done.

Mr. Abell made a motion to approve the Maintenance Memorandum of Agreement between Kimley-Horn Associates, Inc., and the City for the SR 60 Storm Drain Pipes, in connection with the Parc 24 project, which is located North of 23<sup>rd</sup> Street on Indian River Boulevard. Mr. White seconded the motion and it passed 4-1 with Mr. Daige voting no.

#### **4. Monthly Capital Project's Status Report**

Mr. Heady mentioned the different capital projects outlined in the Monthly Capital Project's Status Report and that there were a lot of expenditures. He felt rather than put these things on a consent agenda and not talk about them at all they need to remember that these things increase the cost to their citizens. He said it is going to be tough when Indian River Shores and the County decide to pull out of their utilities. If they continue doing these things, without question, the City taxpayers are going to be left holding the bag and then the rates are going to soar.

Mr. Gabbard explained that all of these items are budgeted and have been talked about. The purpose of the Monthly Capital Project's Status Report is to give information to the Council and the public as to where they are on certain projects. He said that some of these projects are expensive, but they are part of the overall maintenance of the City. A lot of decisions to do these projects were made at budget time back in July or even earlier than that.

Mayor Sawnick made a motion to accept the Monthly Capital Project's Report. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

#### **5. Investments and Earnings on Investments FY09**

Mr. Heady mentioned that there were several investments and he wanted an idea of how variable the interest rate is.

Mr. Steve Maillet, Finance Director, said that those interest rates range between .1% and .2% and it drifts up and down month by month.

Mr. Heady asked if there was any place where he could look and find a number on the total losses that the City has had over the past four years.

Mr. Maillet was not sure what that meant.

Mr. Heady explained all investments not yielding a positive return.

Mr. Maillet explained to Mr. Heady where he could locate that information.

Mayor Sawnick made a motion to accept the report on the Investments and Earnings on Investments for FY09. Mr. Daige seconded the motion and it passed unanimously.

#### **6. General Fund's Undesignated, Unreserved Fund Balance**

Mr. Heady said there is an unreserved fund balance of \$6,571,791. He asked if this unreserved money that could be spent on anything.

Mr. Maillet answered yes.

Mr. Heady noted that it would be nice if they could see how this has changed over the last three to five years. He suggested putting two or three more columns in the report.

Mr. Maillet said that could be done. However, that information is in the CAFR on page 112. It shows the unrestricted balance in the General Fund for the last ten years.

Mr. Heady just wanted the extra columns added to show what the trend seems to be from year to year.

Mayor Sawnick made a motion to accept the report for the General Fund's Undesignated, Unreserved Fund Balance. Mr. Daige seconded the motion and it passed 5-0.

**7. Proposed New Lease between the City of Vero Beach and Corporate Air, Inc., for Parcel 21, Airport West Subdivision**

Mr. Heady noted that this new lease between the City and Corporate Air was for thirty (30) years. He wondered if it would be advantageous to the City to have a shorter term.

Mr. Eric Menger, Airport Director, explained that a thirty (30) year lease is standard. He felt that a shorter lease term would be more advantageous to the City; however the developer is going to want to have a longer term to amortize his lease. The Florida State Statutes allow up to a thirty (30) year lease.

Mr. Daige asked Mr. Menger if this was one of their standard leases. Mr. Menger answered yes. He said that the rate on the property is determined based on the fair market value (based on federal requirements).

Mr. Abell added that at the end of the lease term the property reverts back to the City, which includes any improvements that have been made.

Mayor Sawnick made a motion to approve the lease agreement between the City and Corporate Air, Inc., for Parcel 21, Airport West Subdivision. Mr. Daige seconded the motion and it passed unanimously.

**8. Request from Main Street Vero Beach for the Use of Downtown Vero Beach and Adjacent Park Areas for the Annual Hibiscus Festival**

This item was adopted under the consent agenda.

**3. PUBLIC HEARINGS**

- A) An Ordinance of the City of Vero Beach, Florida, amending Section 58-78 of the Vero Beach, Florida, amending Section 58-78 of the Vero Beach Municipal Firefighters Retirement Trust; providing for expanded Investment Authority as permitted by Law; providing for Codification; providing for severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Terry Zokvic, Secretary/Treasurer of the Fire Pension Board, was at tonight's meeting to answer any questions that Council might have. He explained that this Ordinance is necessary because of the new rules that have been imposed by the State.

Mayor Sawnick opened and closed the public hearing at 7:14 p.m., with no one wishing to be heard.

Mr. White made a motion to approve the Ordinance. Mr. Abell seconded the motion.

Mr. Heady noted that if one of the investments disappears it does not have any impact on the firefighters, but more impact on the taxpayers.

Mr. Zokvic made it clear that for the last twenty years the City has not contributed to this plan. He said that this is the Ordinance that they have in place in order to protect the taxpayers from having that problem.

Mr. Heady felt that by making the changes to this Ordinance, they will be less restrictive on investments in foreign countries.

Mr. Zokvic explained that the Fire Pension Board is recommending that they stay between 10% and 20%.

Mr. Heady was concerned with increasing foreign investments because the taxpayers are on the "hook."

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

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

- A) A Resolution of the City of Vero Beach, Florida, calling for a Referendum to be held in conjunction with the General Election of November 2, 2010 on the Question of Whether the City of Vero Beach may Grant Economic Development Ad Valorem Tax Exemptions pursuant to the State Constitution; authorizing the City Clerk to include the Question on the Ballot; providing an Effective Date; providing for the Repeal of Resolutions in Conflict Herewith; and Providing for Adoption.**

Mayor Sawnick read the Resolution by title only.

Mayor Sawnick recalled that a few meetings ago that he talked to Council about having an item on the ballot similar to what Sebastian has done and what Indian River County is going to do regarding property tax exemptions to new businesses that create jobs and for

expansions of existing businesses that create new jobs. He felt that this was an important step for them to take to become more business friendly and to help decrease unemployment.

Mr. White commented that he was a business owner and agrees that it is good to bring new businesses to the area, but asked what about the existing businesses. He thinks that this would put a burden on the existing businesses.

Mayor Sawnick explained that this is just passing a Resolution in order to get this item on the ballot. He said if it passes on the referendum then they will need to set the parameters.

Mr. Vitunac added that if the item passes under referendum then he will prepare an Ordinance for Council (after the November election) and in that Ordinance the Council will outline whatever parameters that they wish to have.

Mr. Daige agreed with moving forward on the Resolution and felt that it was important for the community.

Mr. Heady commented that this is for new businesses and clearly they want to do things to create new jobs. He said that any property tax exemption to someone is a tax increase to someone else. He said when putting this item on the ballot that the only thing that the public will see is one short paragraph, "Shall the City Council of the City of Vero Beach be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses that create jobs and for expansions of existing businesses that create new jobs?"

Mayor Sawnick explained that the exemption would be on the increase and not what their paying now.

Mr. Heady said that according to the City Attorney the Ordinance has not been drafted yet, so no one knows what it is going to entail.

Mayor Sawnick was optimistic that the Ordinance was going to be similar to what Sebastian has. He said at least he hopes that it will.

Mr. Daige said that they will build a time frame into this. He said that right now they have to do something to help their community economically. People are losing their home and their jobs. We need to do something and this is something that we can do now. He encouraged Council to move forward on this.

Mayor Sawnick made a motion to approve the Resolution. Mr. Daige seconded the motion. The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

**B) Resolution for Assistance under the Florida Inland Navigation District Waterways Assistance Program**

Mayor Sawnick read the Resolution by title only.

Mr. Falls reported that the Resolution was to allow the City to apply for a Florida Inland Navigation District (FIND) grant to do some improvements to the MacWilliam Park boat ramp. The deadline to submit is April 1, 2010 to meet this funding cycle and they are asking for Councils' support.

Mr. Daige made a motion to approve the Resolution. Mr. Abell seconded the motion.

Mr. Heady reported that he was at the Park over the weekend. He asked is there anything that they could do to increase the space available for the fishermen to clean their fish.

Mr. Falls said if they are successful in getting the grant then they could incorporate that into the overall project design.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

Council took a 10-minute break at 6:11 p.m.

**C) A Joint Resolution by and Between the City of Fort Pierce, the City of Port St. Lucie, the City of Stuart, the City of Fellsmere, the City of Vero Beach, the City of Sebastian, the City of Okeechobee, the Town of Sewall's Point, the Town of Indian River Shores, the Town of Jupiter Island, the Town of St. Lucie Village, Florida Municipal Corporations; Indian River County, Martin County, Okeechobee County and St. Lucie County, Political Subdivisions of the State of Florida; the School Board of Indian River County, the School Board of Martin County, the School Board of Okeechobee County and the School Board of St. Lucie County, amending Resolution 03-126; amending the Articles of Incorporation for the Treasure Coast Council of Local Governments, Inc.**

Mayor Sawnick read the Resolution by title only.

Mr. White reported that he looked over the Resolution and did not have any problems with it, but he did have one question. He said that the original Board of Directors was made up of elected officials who are no longer in office and the signature page consists of their names. He asked do they still stay the same as the original names.

Mr. Vitunac explained that this Resolution shows the original incorporate document with the original signatures. The City Clerk spoke with the Secretary of the Treasure Coast Council of Local Governments and was told that they want to keep it the same way.

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

Mr. Heady said the change to the Resolution was that it added School Board officials.

The motion passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

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

- A) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2009 and Ending September 30, 2010, by decreasing the Water & Sewer Fund by \$571,000 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R&R Fund by \$4,071,000 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.**

Mayor Sawnick read the Ordinance by title only.

Mr. Maillet explained that these were projects for the water and sewer system that could either be eliminated or deferred. He said that one of the things they were looking to do was to eliminate in the budget the proposed borrowing. The difference between the \$4,071,000 and the \$571,000 would be funds that the water and sewer system does not have to spend. In addition there is another \$400,000 in projects that they would like to eliminate. Normally they don't go into all of this under first reading, but they would like approval to amend the Ordinance, which the Water and Sewer Director will discuss.

Mr. Sawnick made a motion to approve the Ordinance (with amendment made as outlined by Mr. Maillet) on first reading and set the public hearing for April 6, 2010. Mr. White seconded the motion.

Mr. Maillet clarified that the heading would be instead of \$4,071,000, it would be \$4,389,000, and the borrowing would be reduced to three and one half million dollars and the \$571,000 would increase to \$888,000. He explained that the details would be adjusted in the Ordinance for the public hearing.

Mr. Heady said decreasing expenditures is a wonderful thing. He asked would any of the decreases have any negative impact on the assets. He said that in decreasing the expenditures they need to make sure that they don't decrease the maintenance to the point where they would have a negative impact on the assets.

Mr. Rob Bolton, Water and Sewer Director, said that they would not have any negative impact on the assets. He explained that he went through future planned projects and some were expansions to the Water Treatment Plant, which he felt that they could forgo the expansion at this time. They also looked at some road construction projects and there were a lot of projects that were suppose to start, but have not started and would not be

started until next year. Therefore, they would fall into next year's budget cycle. He said by handling these projects this way that the water increase that was proposed for April 1<sup>st</sup> could be reduced.

Mr. White said that he met with Mr. Bolton, Mr. Gabbard and Mr. Maillet several times and discussed the increase scheduled to begin on April 1<sup>st</sup>. After these discussions, Mr. Bolton came up with a plan to help reduce the rates rather than raising them to the amount they originally requested.

Mayor Sawnick said that this item was on today's agenda under Old Business and asked if they wanted to go ahead and vote on this right now.

Mr. Gabbard said that they would like to go ahead with this now. He said that they could hold the public hearing at their budget meeting on March 29, 2010.

Mayor Sawnick said that there is a motion and a second to approve the Ordinance, with amendments, for a public hearing on April 6, 2010.

Mr. Vitunac said that the Council already had a public hearing where they authorized a rate increase. What Mr. Bolton would like to do now is reduce that increase. In order to have a first and second reading by March 29, 2010 it would mean they would need to hold a Special Call meeting. He said that Council could make this the first public reading and bring back the document on March 29, 2010 and hold a public hearing, so it would be in place for the April 1<sup>st</sup> deadline. He said otherwise the rate would go into effect automatically.

Mr. Daige supported this Ordinance. He was glad they were moving forward in a positive direction on this.

Mr. White said what they wanted to do was to make sure that the bills could still be paid for the projects the City is involved in now and in October they possibly could look at a decrease.

Mr. Heady asked would the items Mr. Bolton would be presenting have an impact.

Mr. Bolton said that he prepared a balance sheet to show Council what their revenue projections are, what their operating expenses are, what was originally budgeted, what they adjusted the first time and what they are now adjusting.

Mr. Heady said that he would like to have staff's input before they vote.

Mayor Sawnick called for a vote on the motion.

The motion passed 4-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

At this time, Mr. Bolton went through the operating revenue as shown on the doc cam (please see attached memo). He reported that there was about \$17,573,000 budgeted at the beginning of the year. After the budget they were notified by the County that they would no longer pay fire hydrant rental, which has an effect of about \$128,000. He reported that the debt service remained the same. He said that next year there should not be any problems with balancing the budget. He stated that they had \$7,000,000 in capital improvements. Their first adjustment brought it down to \$3,025,000 and with this adjustment it would go down to \$2,007,000. He reported that on April 1<sup>st</sup> the existing usage rate on sewer was suppose to go up from \$2.93 to \$4.06. The new rate would be firm \$2.93 to \$3.59. He said that based on the rate they are proposing there should not be any problems balancing next year's budget.

Mr. White made a motion to move this to public hearing on March 29, 2010 at their quarterly budget meeting. Mr. Abell seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

Mr. Daige asked the way they bill, do they charge for separate billing.

Mr. Bolton answered no.

Mr. Daige wanted to make it clear that they do not charge for billing by the meter, it is included. There is no separate billing charge.

Mr. Bolton said that was correct.

## **6. CITY CLERK'S MATTERS**

None

## **7. CITY MANAGER'S MATTERS**

### **A) Presentation of the Comprehensive Annual Financial Report 2009**

Mr. Ross Cotherman, Harris Cotherman Jones Price and Associates, gave a quick overview of the City's financial statements (on file in the City Clerk's office). He reported that this report is comprised of four sections, which were the introductory section, financial section, statistical section and a compliance section. He reported that they have a copy of the Certificate of Excellent for Financial Reporting in their package. He explained that the first page of the Financial Section was their opinion. Pages one and two were the only thing that they take credit for in the Financial Statements. The City engages them to issue this opinion. The Financial Statements are prepared by the City and the responsibility of the City. It is his company's responsibility to audit those numbers, to make sure that the numbers are fairly presented in accordance with professional standards and if they are satisfied then they issue an opinion. Starting on page three is the Management's discussion and analysis, which is a high level summary

of the financial conditions of the City during the fiscal year. Page 13 is the financial statements, balance sheets, income statements, etc. On Page 35 there are the notes to the financial statements, which is a way to give more detailed information related to the financials. Then on Page 65 Mr. Cotherman addressed a couple questions asked by Mr. Heady (letter on file in the City Clerk's office). The first issue Mr. Heady raised was related to the OUC contract and the requirements of the City to disclose that information in the financial statements. He reported that they were aware of the issues going on with the contract. It was something that they addressed throughout their audit. He read from Mr. Heady's letter, "that this Elected Official's legal opinion is that changes were material." Mr. Cotherman said that what they were talking about here was, in professional standards, is that disclosure of legal issues in the financial statements is the City's responsibility to disclose those legal issues if they meet the standards. There are two components to the standards on determining if an issue should be disclosed. First it talks about pending or threatened litigation. He said that his company was not aware of any pending or threatened litigation related to this issue. He noted that Mr. Heady's second point in his letter stated, "Although this issue is not contested at this time I would likely join as a plaintiff against the City regarding the legal enforceability". He said that his company would have believed that something would have been brought before the City Attorney's office if there was pending or threatened litigation. Therefore, they do not believe that it met the first standard. The second part of the standard is that if something is unasserted, which they feel falls into that category; they first have to look to see if it is probability that a claim would be asserted. He did not think this met that part of the second standard. He reported that they confirmed with the City Manager, the City Attorney, and the majority of the City Council who believes that this is a legally enforceable contract. Therefore, his company does not believe that there is a reasonable possibility that the outcome would be unfavorable. The last point was that the resulting liability would be material to the financial statements. He noted that the contract in question took place on January 1, 2010, so there is no financial impact at all to the financial statements of September 30, 2009. Mr. Cotherman referred to Page 65 regarding the FMPA contract and the equity ownership in the contract. He went back to 1996 when the City first entered into the contract and found the original footnote that was contained in the audited financial statement on September 30, 1996 and there was a paragraph which stated, "It is important to note that no participant as an individual entity by agreement has any equity interest in any of the assets owned by the agency. Each member has only the intangible right to purchase power from FMPA." He also looked up five of the participating municipalities and he read from the City of Fort Mead's September 30, 2008 financial statements, "Under the terms of the contract the City has no equity interest in any of the assets of the FMPA" and the City of Leesburg has a similar statement which read, "The City by agreement has no equity interest in any of the assets owned by the FMPA." He also confirmed with FMPA, and they agree, that there is no ownership interest or any assets that should be recorded on the financial statements of the City of Vero Beach. He then reported that on Page 105 was the statistical section, which includes information that is five and ten years of comparisons. He then went over the compliance section of the report, which he explained that part of their audit was to make sure that the City is complying with laws, rules and regulations. On Page 139 was a report on the City's single audit, which has all the Federal grants that the City received.

He pointed out that the management letter located on page 143 was an area that if there were any internal control issues this is where it would be located. He noted that they did not report any this year. Last year there were two comments and both have been resolved. He then thanked Mr. Maillet and his staff noting that it has been a pleasure working with Mr. Maillet over the past few years. He wished Mr. Maillet well in his retirement.

Mayor Sawnick made a motion to accept the Auditors Financial Report. Mr. White seconded the motion and it passed unanimously.

**B) Discussion of Indian River County, Indian River Shores, and the City of Vero Beach Utilities Study**

Mr. Bolton reported that on October 15, 2009 the Board of County Commissioners, the City of Vero Beach, and the Town of Indian River Shores held a meeting to discuss performing a study to look at what infrastructure is out there, how the organizations operate and if there is a possibility of consolidation on part of the water department, the sewer department, or both. A Committee was formed with two members of each entity and he and Mr. Falls were the Committee members for the City of Vero Beach. He reported that they brought back to Council a scope of work they were going to advertise, which discussed the possibility of status quo, the possible consolidation and what it would look like, such as a Utility Authority, Co-op, etc. He said that the advertisement was completed and the Committee met and ranked the consultants, which is before the Council tonight. He recommended that Council approve the ranking, which has been approved by the Board of County of Commissioners as well as by the Town of Indian River Shores Town Council. He was in favor of the ranking and felt that GAI Consultants, Inc., was a reputable firm. He reported that the Committee has a meeting scheduled for Thursday and they could start the scope of work for the project and if there are any changes they would bring them back before the Council. If the City Council still feels that they need to move forward as they originally looked at then the Committee is willing to move forward.

Mayor Sawnick explained that the government entities wanted to have an objective look on the options for all three entities. He felt that they were going in the right direction if they all keep an open mind and see what the facts are.

Mayor Sawnick made a motion to accept GAI Consultants, Inc., as the top choice.

Mr. Bolton explained that the Committee would move forward and if the scope of work is not in the interest of the City they would bring it back to the City Council for their direction. He said that they would bring back the final task and the cost for Council's approval.

Mr. White seconded motion the motion for discussion. He said that in the backup there is information that the County is pulling back from status quo and withdrawing from the franchise agreement or taking over it completely.

Mr. Bolton said that is the County's Comp Plan amendment, which stated either a consolidation or terminations. He recommended to Council that they allow the Committee to move forward in negotiating with the consultant and then they will come back to Council.

Mr. Daige was in favor of the recommendations made by Mr. Bolton. He attended the meeting where the different firms were ranked and he did his own ranking and came up with the same choice that they did.

Mayor Sawnick amended his motion to approve the ranking. Mr. White seconded the amendment to the motion.

Mr. Heady noted that the former employee of the County was hired as a consultant for Post Buckley (firm that was ranked number two). He watched parts of the meeting where they were ranking the consultants and it seemed that Jim Davis, former employee for the County, has done a tremendous amount of work. He wondered if they would have chosen that firm that a large part of the work would have already been completed.

Mr. Bolton did not know what Mr. Davis did and did not understand why a consulting firm would move ahead and do a lot of work before they were awarded the contract.

Mr. Heady commented that it seemed like there was a tremendous amount of work already done that will have to be done, at a cost to the City. He asked Mr. Bolton why did they choose the consultant that they did (what made that consultant stand out).

Mr. Bolton expressed that the consultant has an extensive knowledge in acquisitions, they showed what they would look at as far as different scopes and different processes. A lot of their recommendations were not fixed as to which way to go. They will look at the City's transfers if they do switch or if they choose to consolidate how it will affect the City's revenue. He said that they will do a very thorough analysis. He said that Post Buckley gave the same presentation that was given to the County over a year ago. He expressed that the Committee made it clear in the beginning that there would not be any solicitations with the proposed consultant.

Mr. Heady asked would it be fair to say that your vote for the number one ranked firm was open to many different avenues and the other consultants already had a desired result to where they were heading.

Mr. Bolton said that the other consultant didn't seem to focus on everything that he was looking at.

Mr. Heady stated that what he is hearing is that the number one firm chosen is open to all options.

Mr. Daige said that Mr. Bolton gave a very good overview on what went on at that meeting. He felt that the consultant who has been ranked number one will fit their needs. He said that Mr. Bolton's analysis was very well done.

The motion passed 5-0.

At this time, Council heard the public hearing that was on tonight's agenda.

**C) Discussion and Update of Opening of Humiston Park**

Mr. Falls reported on the grand opening of Humiston Park and said that they are 99% finished with the whole project.

Council thanked Mr. Falls for all of his work in making this Park beautiful.

**D) Electric Utility Update – Utility Commission Meeting of 3/9/2010**

Mr. John Lee, Acting Electric Director, gave an update on the recent Utilities Commission meeting. He said that the City of Vero Beach sent a letter to FP&L and other power providers asking them if they were interested in buying some or all of their utilities. They received a letter back from FP&L who had some questions, which the City answered. At this meeting there was a representative from FP&L attending the meeting to give an update on their status. The person's title was External Affairs Manager for the Treasure Coast and what this person said was that FP&L was doing a high level financial investigation of their documents and they had not yet reached a conclusion. However, they expect that their conclusion will be finished in April and at that time there will be more discussion. Staff and the Utilities Commission asked what the status was of the 80 or so questions that they had sent to FP&L. This person answered by saying that they have those questions, but it is premature for those questions to be answered and they would be heard at the proper time and in the proper manner. Mr. Lee said that once they receive their response from FP&L, they will proceed in moving forward.

Mayor Sawnick asked Mr. Lee to let the Council know when they have received a response back from FP&L and keep them updated.

Mr. Heady asked Mr. Lee if there were any other representatives at this meeting that he knew of.

Mr. Lee said that there were some representatives from OUC and a couple of consultants from Black & Veatch who thought that maybe in the future they might get some work out of this.

Mr. Heady then asked did he know the names of the representatives from OUC.

Mr. Lee answered no. However, he could get their names if that is the wishes of Council.

Mr. Heady asked if there was anything that the City needs to do at this point to ensure that FP&L has all of the documents that they need.

Mr. Lee understood that FP&L has received everything that they asked for from the City and has not asked for any additional information.

**E) Electric Rate Comparison – January 2010**

Mr. Lee showed on the doc cam the Residential Rate Comparison – January 2010/1,000 kilowatt hours (please see attached).

Mr. Heady asked if the numbers shown for FP&L are without the one-time rebate that they gave their customers in January. Mr. Lee answered yes. Mr. Heady asked if there were taxes included in the investor owned utility average of \$119.27. Mr. Lee said there was not. Mr. Heady referred back to 2005 when the City added something similar to FP&L's storm charge and included it in their rates. Mr. Lee explained that they had a hurricane recovery charge for about eighteen months.

Mr. Heady referred to the cost of fuel. He said that when they changed from FMPA to OUC they increased the percentage of coal in their fuel as opposed to FMPA, which was just about all gas. He asked Mr. Lee if he could get him the percentage breakdown of what they have now.

Mr. Lee answered yes and no. He explained that on a day where it is not particularly hot or cold they have what is called a base load day. He said what he would do is pick an average day and give Mr. Heady a percentage breakdown.

Mr. Heady asked how does the two new gas generators at OUC operate. He wondered if they run all the time. Mr. Lee explained that it depends on what the price of natural gas is versus the price of coal.

Mr. Daige asked Mr. Lee to site his source as to where he came up with these numbers for this residential rate comparison. Also, when he received these numbers does he feel that they are true or just numbers that he has been given.

Mr. Lee quoted the website where he retrieved these numbers.

Mr. Daige expressed that they were doing everything that they could to continue to lower their utility bills.

**F) Discussion and Update of Vero Beach's Vero Man Site**

Mr. Tim McGarry, Planning and Development Director, gave a brief update on where they are with the Vero Man site. He recalled that at the last Council meeting they adopted a Resolution supporting the Historic Preservation Commission (HPC) to coordinate what is going on with the Vero Man Site. He said that they were going to

fence the property and will be working on getting more studies done. Mrs. Granpierre from the Vero Old Ice Age Committee will be at the next HPC meeting to give them an update.

Mr. Daige asked when will they install the fencing.

Mr. Gabbard said that they will probably start the fencing project within two or three weeks and it will cost under \$10,000, which will come out of Airport funding as part of their security plan.

#### **G) Tree Trimming Annual Contract Renewal – Updated Information**

Mr. John O'Brien, Manager of Purchasing and Warehouse Operations, recalled that this item was tabled from their last meeting. He said that Council was interested in knowing if the hourly rates that they received in 2006 are above or below the current market prices. In addition, Council was interested in using local contractors. His office did a survey to compare current rates and the current contract that the City has with Asplundh is for \$69.91 per hour for a three man crew and equipment, which is \$6.82 per hour less than Fort Pierce Utility Authority (FPUA) who has the next lowest rate. As a result, they are saving \$28,371.20 a year compared to FPUA and even more compared to the remaining three surveyed utilities. He recommended renewing their contract with Asplundh for one more year.

Mr. White made a motion to approve a one-year renewal of the Annual Tree Trimming Contract with Asplundh Tree Experts Company. Mr. Abell seconded the motion and it passed unanimously.

#### **H) One-Cent Sales Tax Contribution to Indian River County**

Mr. Maillet referred to the letter that they received from the County informing them that on August 18, 2009 the Indian River County Board of County Commissioners voted to approve a request to notify the cities of Vero Beach, Fellsmere, Sebastian and the Town of Orchid for a contribution from the share of the one-cent optional sales tax receipts for fiscal year 2009/2010. He feels that what the County should do is fund fire capital out of the fire district.

Mayor Sawnick asked how much the City would have to give the County if they agreed to do this.

Mr. Maillet said the way that the County Management and Budget Director had it worked out it would be about \$280,000.

Mr. Maillet continued stating that he didn't understand why the County wants to use one-cent sales tax money when they have a small fortune in the Fire District. At the end of fiscal year 2008 the Fire District had fifteen million dollars in cash. He made it clear that the taxpayers of the City have already contributed so they should use that money that

they have already received from the taxpayers for the Fire District. He also felt that the City should not get into the practice of subsidizing the County's budget.

Mr. White mentioned the property that they have given the County for some of their fire stations.

Mayor Sawnick made a motion to reject the request of the one-cent optional sales tax contribution. Mr. White seconded the motion.

Mr. Daige commented that the City have been good neighbors with the County. We (the City) are paying as we go and we have been cooperative and right now the City just can't do this.

Mr. Gabbard would recommend that Council decline to participate.

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

**I) Discussion of Transmission Agreement with Florida Power and Light**

Mr. Lee briefly explained the transmission agreement with FP&L. He said that there were no negotiations on the price because it is a fixed tariff.

**8. CITY ATTORNEY'S MATTERS**

None

**9. CITY COUNCIL MATTERS**

**A. Old Business**

**1) Local Preference Ordinance – Requested by Councilmember Daige**

Mr. Daige who initiated the Local Preference Ordinance said that he is doing this because he is a big supporter of local businesses.

Mr. Vitunac explained that there already is a certain kind of local preference in the Vero Beach Code, which does grant them some lead way. He said in the Florida Legislature there are several bills right now dealing with this issue. Whatever action they take here might be affected by the State Legislation. He suggested adopting something similar to the Indian River County Ordinance for first reading at their next meeting. He said by the time they are ready to hear the Ordinance at the public hearing they should know what the State has decided to do and that will make their decision as to whether they continue or not.

Mr. O'Brien explained that they do currently in their Code afford the opportunity to award to their local contractors. He has reviewed the County's Local Preference

Ordinance and in their Ordinance they indicate after six months they are going to conduct a report to see what the outcome is and then after a year they will determine if they wish to continue with what they are doing. He said according to their six month report there has been no impact at all on awards. He said that if Council chooses not to do anything that they still have the option to use the local preference that is already in their Ordinance.

Mr. Daige asked Council to please allow this to move forward. Also, when they are in Tallahassee next week they need to let the Legislatures know that they are pushing for this.

Mr. Vitunac said that they might want to consider adopting a Resolution in support of the Statewide bill that allows local preference.

Mr. Daige made a motion to move this forward and at their next meeting hear the Ordinance on first reading. Mayor Sawnick seconded the motion.

Mr. Heady said that they want to move forward, but they don't know whether they can until the State makes up their mind. Mr. O'Brien pointed out that they have a provision in the City Code to make sure that there is a local preference. He felt that it was premature doing this at this time. He said they should wait until the State decides what they are going to do.

Mr. White clarified that right now they have the option to choose the local bidder even if they are not the lowest bidder. He was told that was correct.

Mr. O'Brien added that they have not had a situation where they needed to use local preference.

Mr. Vitunac will bring back an Ordinance for first reading at their next meeting.

Mayor Sawnick called the question. The motion passed 4-1 with Mr. Heady voting no.

Mayor Sawnick made a motion to extend the meeting to 8:45 p.m. Mr. Abell seconded the motion and it passed 4-1 with Mr. Heady voting no.

**B. New Business**

None

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

**A. Mayor Kevin Sawnick's Matters**

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

Mayor Sawnick reported that he attended the Utility Commission meeting, Coffee with the Council, the Humiston Park reopening event, a meeting with Mainstreet Vero Beach where they are discussing reopening the Theater Downtown and possibilities of creating a CRA. He also announced that the next Mayor's beach cleanup will be held on March 27<sup>th</sup> at Humiston Park between 11:00 a.m. and 1:00 p.m. He also mentioned that on March 29<sup>th</sup> the City Council will be holding a Special Call meeting (to discuss their quarterly budget). He asked Council to give ideas to the Clerk if they have any for that meeting. Also, they have scheduled a Special Call meeting for May 11<sup>th</sup> to discuss Economic goals for the City of Vero Beach.

Mayor Sawnick felt that by setting a deadline for tonight's meeting and extending it if they needed to has worked out real well. What he is trying to do is help the Council to narrow their points down to be more precise and to the point. He thought that they made a lot of progress on doing that tonight. He said after talking to people in town they feel that marathon meetings deter people from watching the meeting. He said at the next meeting he will be bringing this up again and have backup material to provide to Council. In addition, any action that the Council would like to take he asked that they provide backup material for the Council and the public. This is another item that will be voted on at their next meeting. Another step that they need to take is to limit Council Matters to fifteen minutes. That also will be voted on at their next meeting. He encouraged Councilmembers that if they have questions about an item on the agenda, to ask staff before the meeting. This gives staff enough time to find out the answers to their questions. He is happy that they are engaging in discussions with FP&L and feels that they are moving in the right direction to reduce utility costs and looking at other options that they might have.

### **3. Comments**

#### **B. Vice Mayor Sabin Abell's Matters**

##### **1. Correspondence**

Mr. Abell referred to the email that they received on this year's Under the Oak's Art show and what a success the show was this year. They had over 80,000 people attend the event.

##### **2. Committee Reports**

Mr. Abell reported that he attended the Chamber of Commerce Economic meeting, the Utilities Commission meeting, an MPO meeting and the reopening of Humiston Park.

##### **3. Comments**

###### **A) Discuss efficiencies for Vero Beach Council Meetings**

Mr. Abell felt that they needed to be more efficient in how their City Council meetings are run. He has come up with a few suggestions, which he will bring back at their next

meeting to vote on and make a part of their policy. His suggestions included: A) Meetings are not allowed to run for more than three (3) hours – four (4) hours max; B) Confine questions to the matter under discussion; C) Councilmembers may have up to two (2) items on the agenda under their matters and may be given up to five (5) minutes for presentation and discussion on each item; D) Limit Councilmembers speaking on an agenda item to five (5) minutes; E) Per the City Attorney, any item requiring action of the City Council should be placed under New Business and not under City Council Matters; and F) If a Councilmember wishes to remove an item from the “consent agenda,” the Councilmember must do so by 3:00 p.m. on the Monday prior to the meeting by notifying the Charter Officer who was instrumental in putting the item on the agenda. If an item is removed, it will be heard at the time that it is removed from the consent agenda.

**C. Councilmember Tom White’s Matters**

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

Mr. White gave an extensive report on his Beach and Shore’s Preservation Commission meeting, he attended the reopening of Humiston Park, he attended a charity event sponsored by the Veteran’s Association, he attended Coffee with the Council and participated in the St. Patrick ’s Day Parade.

**3. Comments**

- A) Discussion of Water & Sewer Rate Increases – (Backup Provided)**

This item was discussed earlier in the meeting.

**D. Councilmember Brian Heady’s Matters**

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

Mr. Heady referred to Mr. White’s Beach and Shore’s Preservation Commission report and asked if he has any data as to what the Pep Reef has added.

Mr. White said that he could get that information. He has been told that the Pep Reef has helped excrete sand, but the State will not recognize the Pep Reef as being a mitigation point for sand.

Mr. Heady asked if the Commission was doing any studies for additional Pep Reefs in other areas of the beach where there is erosion problems.

Mr. White said that the State will not approve any more reefs. They have been trying to convince the State of Florida that the Pep Reef really worked.

Mayor Sawnick asked Mr. White if he could get that information for the whole Council. Mr. Heady had another question to ask Mr. White concerning his report. Mayor Sawnick said that because of the time he asked Mr. Heady if the question could wait. He wanted to make sure that his (Mr. Heady's) matters were discussed as well as Mr. Daiges'. Mr. Heady told the Mayor that Mr. White gave his report and asked does he not want him to ask a question concerning his report. Mayor Sawnick just wanted to make sure that they had enough time to discuss the other matters that still remain on the agenda.

Mr. Heady then asked Mr. White if there was any data with these truck trips to what this does to the roads.

Mr. White said apparently staff has said that it does not affect Wabasso Bridge. He said that the only thing Ranger Construction is responsible for is for the damage that they do from A-1-A to the beach and not anything that happens on the roadway.

**A) Web Page Facts**

Mr. Heady mentioned that he got into a debate with someone who was telling him about different electric rates and he told them that it was not true and he checked out the facts displayed on the City's webpage. He then did some more checking and found that the facts on our webpage are different than what is being reported by the State. He felt that if they are going to put things on their webpage then they need to be accurate. He also went back and checked on some minutes where a correction was made and the corrected minutes were not on the webpage. He said it is important to make sure that if there have been corrections made to the minutes that the correct minutes are on the webpage.

**B) Progress for Internet connection for meetings**

This item will be heard at their next meeting under Old Business.

**C) Still waiting for written answers from City Manager**

Mr. Heady reported that he still has not received any written answers from the City Manager.

**D) OUC Contract**

Mr. Heady commented that there seems to be this on-going debate about the OUC contract. The City Manager and the City Attorney have both said that he was shown the original contract. He said if you listen to the words that they used you hear that he was shown a copy. The point that he was making was that he wanted to see the original and the original should never have been removed from City Hall. He has checked with different attorneys' that work for municipalities throughout the State of Florida and asked for their opinion on the removal of such a document from City Hall and not having it available to the public for over two years, and they all said the same thing that it was improper and the City Manager and City Attorney should have made sure that there was a

copy of the document at City Hall. He said as it stands now there is no way to be sure that the document that is in the files is in fact what the Councilmembers discussed. If he had the time he could ask Councilmembers, the City Manager, and the City Attorney, questions on what was in the contract and there would be no way that they could recite it because they have not memorized the contract. Mr. Abell has stated that he has had a copy of the contract since shortly after the April 21<sup>st</sup> signing. Mr. Heady made a public records request to Mr. Abell that he supply him with a copy of the document that he has had in possession for a couple of years.

Mr. Heady mentioned that the other thing in the OUC contract is that they hear from Councilmembers who voted in favor of it that they really need to do something to reduce the rates for the ratepayers in this community. When he looks at the document that was presented to him, what he sees is that the contract has increases that are built into it.

Mr. White stated that he voted against any increases.

Mr. Heady thought that the increases were included in the contract.

Mr. White explained that what is in the contract is the normal increases from year to year. What he is referring to is rate increases passed on to their customers.

Mr. Heady explained that what he was referring to was the built in increases that are in the contract.

#### **E) Refusal of staff to answer questions**

Mr. Heady brought up refusal of staff to answer questions. He said that if he says something that is incorrect then it needs to be identified as to what he said is wrong. He said if he doesn't get something right he wants to be told. He has asked staff to identify what he said was wrong referring to the City Manager who has refused to put what he said was wrong in writing.

#### **F) November Elections**

Mr. Heady expressed that he is the only sitting Councilmember who is not up for re-election in November. He said that there is also a voter initiative that Mr. Wilson is trying to get on the November ballot. He felt that they could have some discussions at these Council meetings about the issues of this voter initiative and the different things that are coming up. He suggested that maybe the Council could allow the use of the public television air time that they have available to them to air some debates with anyone from the public who wanted to challenge any of the four incumbents that are up for election. He thought that this would be a good use for their television time. He said if they are going to have productive meetings, this would be one way to be productive and to educate the public. The qualifying period for someone wishing to file to run for City Council for the November election is August 19, 2010 through September 3, 2010.

**G) Public Discussion of FP&L offer progress**

This item was discussed earlier in the meeting.

**H) Financial Reports Electric Breakdown/Rates**

Mr. Heady handed Mr. Lee a memo that he wanted to Mr. Lee to have. He said that he had given the memo to the Clerk and for whatever reason, Mr. Lee never received it. He told Mr. Lee that he would appreciate it if he could get back to him with those breakdowns sometime between now and the next meeting.

Mr. Heady commented that he has talked about the issue on what the ratepayers would be paying if the City had accepted FP&L's contract. He posed this question to the representative from FP&L and she said that Vero Beach would be paying essentially FP&L rates. He does not know if this statement was accurate, which is why he has asked Mr. Lee to provide him with this information.

**I) March 2 City Council Meeting**

Mr. Heady stated that at the March 2, 2010 City Council meeting, Mr. Abell said that he received a copy of the document from OUC shortly after the April 21<sup>st</sup> signing. He again made a public records request to receive a copy of this contract. The second item he brought up was at this meeting of March 2<sup>nd</sup> the City Clerk clearly stated that she could not certify that the contract that is in the file is the original. The last thing that occurred at the March 2<sup>nd</sup> meeting was that the Mayor apparently doesn't appreciate some of the questions that he has and has more than once gaveled him down. He said one example was at the March 2<sup>nd</sup> meeting, he was asking the City Manager a question and the City Attorney interrupted and when he started to say to whom he was asking the question to the Mayor gaveled him down and told him that he was out of order. He said that he was the one who had the floor and the City Attorney was interrupting, but the Mayor uses the gavel at his pleasure and the end result was that the City Manager never did answer the question. He thought that this was an improper use of the gavel by the Mayor. He said that each Councilmember has the right to ask questions and expect answers from their staff that are on the payroll.

**J) Direction City Manager for new staff**

Mr. Heady commented that he first heard that Mr. Maillet was leaving the City on a radio show that Mr. Daige was on where he was going over the process of hiring a new Finance Director. He felt that the Finance Director was an extremely important position in the City and that the Council should have some input, rather than just be told who the replacement is going to be.

**E. Councilmember Ken Daige's Matters**

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

Mr. Daige mentioned that with the rate increases that were discussed earlier, he was not on Council at that time. He also asked for a recommendation from Mrs. Vock on the video streaming.

Mr. Daige went over his Committee report (please see attached).

**3. Comments**

**A) Water & Sewer Rate Increase**

This item was discussed earlier in the meeting.

Mr. Abell mentioned that earlier Mr. Heady wanted to be told if he says something incorrectly. He explained to Mr. Heady that the Council hires only the Charter Officers and the Charter Officers hire their own staff members.

Mayor Sawnick reminded everyone to fill out their census survey when they receive it and mail it back.

**11. ADJOURNMENT**

Tonight's meeting adjourned at 8:54 p.m.

/tv