

**SPECIAL CALL CITY COUNCIL MINUTES
TUESDAY, JULY 20, 2010 3:00 P.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

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

1. CALL TO ORDER

A. Roll Call

Mayor Sawnick opened the meeting at 3:00 p.m., and the Clerk performed the roll call.

B. Pledge of Allegiance

Mayor Sawnick led the Council and audience in the Pledge to the flag.

2. ITEM FOR DISCUSSION:

A. Presentation by Florida Power & Light (FP&L)

Mayor Sawnick explained that a few months ago the City mailed a letter to different electric utilities regarding their interest in possibly purchasing the City's electric system. He stated that FP&L replied to the City's request and are currently looking at a financial analysis on if they might have an interest of possibly making an offer in the future. At this time FP&L is at the point where they need Council's approval to continue into the financial analysis. He said that representatives of FP&L were present today to give a presentation. Once their presentation is complete, Council would then have the opportunity to ask them questions and then members of the public would be allowed to speak on whether they feel Council should or should not move forward with allowing FP&L to continue with their financial analysis. He wanted to make it clear that today's meeting was for the purpose of whether FP&L should go forward to see if they may want to make an offer to purchase the City's electric utilities.

Mrs. Amy Brunjes, FP&L Internal Affairs Manager for Indian River County, stated that FP&L is interested in investigating further into the City's electric system with the goal of attempting to find a situation that is beneficial for the City of Vero Beach, FP&L and for their customers. She then introduced Ms. Pam Rausch, Vice President of External Affairs for FP&L, to the Council.

Ms. Rausch thanked Council for inviting FP&L to be here today as well as for asking them to take a look at the City's system. She stated that an acquisition of any electric utility is a very complex matter that will take time to understand what is involved. She reported that FP&L was not ready to make an offer for the system or to tell the City that they have determined what they think the system is worth. She explained that they were before Council today to ask for

authorization to allow them to proceed with due diligence to determine if there were any possible discussions or solutions that might be viable and beneficial to the City, the customers and to FP&L. She then showed on the screen the Timeline of Events and the Potential Next Steps (attached to the original minutes). She reported that they were aiming to find if there is an acquisition scenario that would benefit the City's customers, as well as FP&L customers. She said that they looked to see if there was a way to create a situation that would allow City customers to enjoy the same rates that FP&L customers enjoy. She said that the City has contracts in place with OUC and FMPA, who have rights associated with those contracts. Although FP&L does think there might be some opportunities that could be beneficial to the City's customers, they cannot do a realistic analysis until they are able to bring OUC into discussions. They are requesting authorization from Council to allow them to have these discussions with OUC, FMPA and City staff so they can look to see if there is a potential path that would be beneficial to all involved. She felt that once they have those discussions, it would be clear to everyone whether there are any beneficial opportunities. She thanked Council for asking them to engage with the City and stated that they want to do this in partnership with the City.

Mayor Sawnick felt that they needed to move forward with this in order to keep the options open. He noted that this would not bind the City to anything as they were not making any decisions other than to look at the possibilities.

Mr. White said there recently was an article in Press Journal, which stated that Mr. Heady met with representatives of FP&L and he said (Mr. Heady) it was indicated to him that the City customers would be paying the same rates as FP&L customers if FP&L took over the City's system. He asked Mrs. Brunjes if she has seen this article and was this information that they told Mr. Heady.

Mrs. Brunjes said that she did read the article in the Press Journal.

Ms. Rausch reported that she was part of the meeting with Mr. Heady. She noted that they met individually with Councilmembers who wanted an update individually. She said they explained that they told them it was their goal to look at what scenarios might work that would start with the basic assumption of keeping Vero Beach customers at the same rate as FP&L customers. They do not have all the information at this time. She felt that Mr. Heady would agree that they told him this was not definitive and that is why they need to bring OUC to the table. It is their goal in their modeling to start with that assumption.

Mr. White understood that this was an assumption and not a definite. He stated that Mr. Heady appeared on two programs as well as Weekend Talk stating what a great deal FP&L was going to give the City like he had firsthand knowledge that FP&L was going to give the City fair market values, the City customers would pay the same rates, etc. He felt that there was a lot of things said authoritative that this was going to happen. He asked was Mr. Heady told that these were assumptions and not definites.

Ms. Rausch felt that they relayed that they were working towards that and it was not definitives. That is one reason they were not ready to lay out a proposal in public at this time. They have a long way to go with their due diligence.

Mayor Sawnick felt that they made it very clear that they don't know for sure and that is the reason they need Council's approval to go further in order to find out the possible options.

Mr. Abell asked what would have been the FP&L rate if they received their request of a rate increase of \$1.2 billion dollars. He asked Ms. Rausch to explain what that would have brought their rate up to.

Ms. Rausch explained that FP&L did request that the Public Service Commission (PSC) consider their rate increase request last year, which was denied. She reported that FP&L has filed a motion for reconsideration. At this point that rate case has not been resolved. If they had received the entire request, their customers base rates would have been increased somewhere between \$8.00 and \$9.00. She noted that currently FP&L has the lowest bill in the State of Florida. Even if they had received the rate increase they requested, they still would be significantly below the closest second in the State of Florida out of 55 utilities. Their reliability is also the best in the State.

Mr. Daige asked Ms. Rausch if FP&L representatives met with him in private.

Ms. Rausch answered no.

Mr. Daige wanted it on record that he has not talked with any FP&L representatives. He said that there were a couple of articles in the Press Journal and in 32963 Veronews.com. He said there was a statement in Veronews.com regarding paying off the bonds and any penalties that might be owed to OUC. He asked Ms. Rausch in their discussions with the individual Councilmembers, did they speak about how this would be paid off and show different financial models in their presentation.

Ms. Rausch explained that they discussed certain assumptions they were starting with and they were not certain if they were true. What they were shooting for were assumptions that the rates of the Vero Beach customers would stay the same and that the acquisition would include, at a minimum, enough funding to allow the City to defuse their bonds.

Mr. Daige asked is the Power Point presentation they gave the individual Councilmembers on record.

Ms. Rausch answered no. She said once they are able to sit down with OUC and they have the information they need, they would then be happy to share the information publicly. She explained that this was not about hiding information, they just don't have the information to share.

Mr. Daige said it was his understanding that a Power Point presentation was given to the individual Councilmembers. He asked is what they have showing on the screen today what was used in the individual meetings.

Ms. Rausch said what was being shown today was part of the information that was shown to the individual Councilmembers. She said there also was some information about looking at the City's budget and things that would have to happen in order to make the deal attractive to both FP&L and the City. But, they were just assumptions.

Mr. Heady understood that Ms. Rausch somewhat monitored his remarks. He stated that what he had said was "yes" FP&L is coming to town and we are glad to see them and "yes" we are going to have the opportunity to have them look at the City's utilities. He said that FP&L was not coming into to town to stick it to the Vero Beach utilities. They are not coming here to try to steal anything from the City. He said that he also stated "yes" they're going to give the City fair market value, "yes" they're going to give the City value for the dollar because the Public Service Commission (PSC) would not allow anything differently. They are here to see whether or not there are opportunities for them and the City to benefit. He did say that it was absolutely the goal of FP&L to give City customers FP&L rates. He said there has been some question on whether he spoke with FP&L representatives privately. He was told that FP&L said that they would speak to any Councilmember who wanted to speak with them and he said yes, he would talk with them anytime they want to speak with him. He said regarding what was reported by the Press Journal and 32963, he felt that they reported fairly accurately on what happened. Certainly he never negotiated a deal and FP&L never came into the meeting with him stating that they were going to negotiate a deal. He said that there were some members in the community who were concerned with the property where the Power Plant is located and he asked FP&L representatives during his meeting with them if it would be a deal breaker if the City doesn't want to give up the property. He said that FP&L said that would not be a deal breaker. Regarding the statement that FP&L was not trying to hide information, he did not think they were. They have been and continue to be upfront. He felt that FP&L was here to make an attractive offer that will make them some money and when their offer comes back to the City it is going to help all the ratepayers. He thanked Ms. Rausch and Mrs. Brunjes for attending today's meeting and looked forward to meeting with them again.

Mayor Sawnick said that anyone from the public who would like to speak to state whether or not they want this to move forward. Could do so now. He explained that he did not want the public to speak on any assumptions, but only to state yes or no in going forward.

3. PUBLIC COMMENTS

Dr. Stephen Faherty thanked Council for holding today's meeting and FP&L for having done the initial analysis. He did not think there was any answer but to proceed with this to end the misinformation and speculation in the community and to obtain facts for this Council to make a decision that is for the benefit of the City taxpayers, voters and for all their customers.

Mr. Jim Gillon, 2743 Ocean Drive, asked Mr. Vitunac in order to sell this huge asset, would it have to go to the voters of the City to determine if it is allowed.

Mr. Charlie Vitunac, City Attorney, explained that the City Charter provides that the voters have to give their approval for the sale of the land where the Power Plant is located. If the City kept the land, then they would not have to go to referendum.

Mr. White said the Council could request that it go before the voters.

Mr. Vitunac said that was correct.

Mr. Gillon asked if they were to go ahead with this, would they question and compare customer service of FP&L versus customer service of the City utilities.

Mayor Sawnick said if they approve this today, there would be a lot of scenarios that they would be looking at.

Mr. Gillon felt that the City customers were getting far better service than FP&L customers. He said that they (City customers) are paying a little more, but they have a wonderful utility. He would like to see this put before the voters and property owners within the City of Vero Beach.

Ms. Linda Sposato asked Mr. Vitunac and the City Council if they are 100% in favor of the investigation to go forward to see if they could help the people who do not live in the City of Vero Beach who are paying a huge burden and a huge part of the surcharge.

Mr. Vitunac said that he would not answer the question.

Mr. Sawnick asked Ms. Sposato to address the City Council. He said that he was in favor of moving forward.

Mr. White answered yes.

Mr. Heady answered yes, he was in favor of having FP&L put an offer in front of them and having them look at the information. He is always in favor of looking through the information and he wants all the information in front of them.

Mr. Daige said that he was in favor of doing what is in the best interest of the taxpayers and residents of the City. He said that the City is a utility provider for many people who live in the County and they have to do what is best for all involved. As a representative for the City, he will do what is best for the City.

Mr. Abell said in order to find out what is best for the taxpayers and ratepayers they need to go forward with the studies proposed. But, they also have to think about the asset owned by the taxpayers of the City of Vero Beach and the service involved.

Ms. Sposato agreed that it was very important to get all of the facts and to look at all the options. She felt that there has to be some consideration for the 61% of the people who live outside the City and who cannot vote in the City and who are paying a large share of the surcharge.

Mr. Vitunac said there is not a surcharge. He said there is a fuel cost and a non-fuel cost.

Ms. Sposato asked Mr. Vitunac is the percentage of the fuel cost the same for City residents as it is for non-City residents.

Mr. Vitunac answered yes.

Ms. Sposato hoped that they would keep an open mind and help all of the people.

Mr. Rusty Bragg, 1915 27th Avenue, felt that the City would lose revenue with the sale of the system. He said that he does not own property in the City, but he does rent. What he read in the newspaper was that the property taxes would be increased threefold. Therefore, he would save money on his electric bill, but his rent would be raised.

Mr. Heady did not think anyone in the position of authority has said that taxes would increase threefold. His guess was that it would not even be close to what would happen. Those are the kind of details that need to be worked out.

Mr. Bragg commented on what he read in the Press Journal a few days ago. He said that the General Fund would be depleted. He asked how will they fill that void. He said that they would not get the personal touch from FP&L as they get with the City utilities. He asked Council to leave this alone and walk away from it.

Mr. Charlie Wilson said that they have waited for this day for a long time. He thanked Council for considering moving forward. He also thanked FP&L. He said there would be several conversations on the pros and cons of selling the utility. He said that he has never been in a situation where all the information available should not be considered. He said that the City utilities has 40,000 customers who have no say (County residents). He said that there would be a referendum of the public in about four months. He was glad that Mr. Abell wants to collect this information. He asked that they give FP&L a chance to give the City real and solid information. He said that \$23 million dollars leaves this community every year for no reason. He said they were wrong about taxes going up, they were wrong about the buy back, and they were wrong about the City utilities being lower than FP&L. They have been wrong over and over again and finally FP&L is here to give accurate information.

Mrs. Tracy Carroll, Chairwoman of Operation Clean Sweep, reported that one of their goals has been working on a petition drive to bring to the voters the capability to say this is something

that they want. She reported that they received over 1,000 signed petitions and several of them included handwritten notes thanking them.

Mr. Mark Tripson, 1520 12th Street, reported that he lives in the County and has City utilities. He felt that the City should study this and then say thank you very much and go about with what the City is doing. He said that he was happy with City utilities.

Mr. Rusty Bragg said the City got into this mess because of their previous power supplier.

Mayor Sawnick made a motion to authorize FP&L and the City to pursue due diligence issues with OUC and FMPA. Mr. White seconded the motion.

Mr. Daige said that he would like to have the City Attorney, City Manager, Acting Electric Utilities Director and Finance Director at the meetings with FP&L and whoever they need to meet with. He also would expect a report brought back to Council to keep them abreast of what is going on. He felt that it was important to gather as much information as possible. He said that he has some questions from the Utilities Commission members that he would give the City Clerk to submit to FP&L (on file in the City Clerk's office). He said that he would like to get the answers to every question. He said that the City had a financial analysis done on how the ad valorem taxes would be affected and he would get a copy of this to FP&L. He said that the City Manager contacted the City's accounting firm to put some numbers together so that the City taxpayers could see how it would affect them. He said that Council understands about the City's electric bills. He said that he spoke with a number of County residents who want the City to continue working to get the utility bills down, however they like the service they receive. What he is being told is that the City utilities give very good service and our citizens expect that. The residents who live in the County want to make sure that if they go off the City's system, that FP&L is asked if they are going to get the service that they get with City utilities, would they have a voice, could they meet with FP&L's upper people in the company if they have complaints. They want the same open door that they have with the City Council. He said there are customers who want the City to get out of the utility business and some customers who want the City to stay in the utility business. He said that the utility bills are still unacceptable to him and they have to come down. He reminded the City voters that this is their City and they need to figure out where they want to go. He asked that the citizens give the City a chance to get all the facts on the table. He said to let Council do their job and pay attention who they are putting into office.

Mr. Heady said Mr. Daige suggested that the City Manager, City Attorney, Acting Electric Utilities Director and Finance Director hold the hand of FP&L.

Mr. Daige called Point of Order. He did not say to hold their hand.

Mr. Heady said Mr. Daige suggested that the City Manager, City Attorney, and Acting Electric Utilities Director go along and hold the hand of FP&L and be with them during these meetings. He said that is not what this is about. This is about authorizing FP&L to pursue their due

diligence and to have discussions with OUC. If they want the City Manager to attend then the City Manager should make himself available. If they want the City Attorney then the City Attorney should make himself available. He felt that they should make themselves available to FP&L as they need them. He did not think that FP&L needs anyone to hold their hand during the meetings. He said to let them go, let them do their due diligence, and let them bring back a proposal.

Mayor Sawnick thought that Ms. Rausch stated that it would be beneficial to have the City Manager, City Attorney, Acting Utilities Director and Finance Director present during these meetings.

Ms. Rausch said that they were comfortable meeting with OUC on their own, but if City staff wants to join them they would welcome them.

The motion passed 5-0.

Mr. White thanked the representatives of FP&L for attending today's meeting. He appreciated the time that FP&L spent on this.

Ms. Rausch asked for clarification on the motion. She thought that Mr. Daige wanted to be included in the meetings.

Mr. Daige said that he did not want to be included, only City staff.

Ms. Rausch said that they would send an invitation to staff.

Mr. Gabbard asked what if OUC or FMPA would like representatives from the City to attend.

Council did not have a problem with City staff attending.

Mr. Daige made a motion that the City Manager, City Attorney, Acting Electric Utilities Director and Finance Director be at the table.

Mayor Sawnick felt that it was clear that they would be involved and a motion was not needed.

Mayor Sawnick thanked FP&L representatives for attending today's meeting.

4. ADJOURNMENT

Mayor Sawnick made a motion to adjourn today's meeting at 3:53 p.m. Mr. Abell seconded the motion and it passed unanimously.

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