



October 25, 2016

PETITION TO PSC FOR ADMINISTRATIVE HEARING

Dear Friends and Neighbors,

Just 12 days from now, our electric service franchise agreement with the City of Vero Beach will expire, at which point the City will be in violation of our Town's Constitutional rights.

As you know, our Town's dispute with the City has never been solely about electric rates, though the rates charged by the City have been far too high for far too long. Our dispute is about our fundamental right, as a municipality, to protect our residents from the City's unconstitutional exercise of extraterritorial municipal power.

While constitutional issues sometimes can be complicated, this one is not. The constitutional constraints on the City's extra-territorial powers are based on a common-sense principle, namely, one municipality (the City) cannot unilaterally impose its municipal will on another equally independent municipality (the Town), unless the Florida Legislature expressly grants those unilateral powers to the City.

Earlier today, our Town filed a petition that puts this constitutional issue squarely before the PSC. In light of the looming expiration of our franchise agreement, we have asked for an expedited administrative hearing to address what we believe to be an erroneous interpretation of the Florida Constitution in the PSC's proposed order issued on October 4.

You can find a copy of our petition [here](http://www.irshores.com/10-25-16-Petition-to-PSC-to-Expedite.html) [<http://www.irshores.com/10-25-16-Petition-to-PSC-to-Expedite.html>], and I encourage you to read it. To recap, we believe the Florida Constitution forbids the City from unilaterally exercising extra-territorial powers within the boundaries of our Town upon the expiration of our franchise agreement. Such powers can only be granted to the City by the Florida Legislature, which has not done so. Extra-territorial powers are not inherent to a municipality, and cannot be granted by the PSC. In addition, we continue to assert that over time, the City has used the PSC's territorial order to operate an unregulated monopoly within our Town and subject our residents to high rates, inferior service offerings, and other unregulated monopoly abuses. As you well know, unregulated monopolies are not in the public interest.

The PSC can address both issues by modifying its territorial order and placing the entire Town within the service area of Florida Power & Light, an investor-owned electric utility that is subject to extensive PSC regulation and already serves parts of our Town cost effectively.

I know you share my frustration that we have reached this point. Our Town and the City have been involved in a lengthy and expensive legal battle that should have been settled months ago. To settle the matter, FPL offered \$30 million in cash to purchase the electric system in our Town, an offer so substantial that it more than doubled the highest purchase price the City's own consultants could identify in a nationwide survey. Not only would that \$30 million in cash settle the protracted litigation, our expert consultants have also determined that it would enable the City to upgrade its electric system, and still leave enough money to create a rate stabilization fund that could immediately reduce the City's already high electric rates.

Despite these facts and the unanimous support from the City's Utilities Commission, which found that the FPL offer provided enormous benefit to the City, three of the City's elected leaders chose to reject it.

I can only hope that future City leaders will one day understand the tremendous positive impact \$30 million in cash could have.

Until that time, we intend to take all necessary action to protect the rights of our Town and its residents. I will continue to update you as our case progresses.

Thank you.

Brian M. Barefoot
Mayor