



**MINUTES**  
**For Joint Meeting Held at**  
**Vero Beach Community Center, 2266 14<sup>th</sup> Avenue, Vero Beach, Florida**

**MEDIATION:**  
**TOWN of INDIAN RIVER SHORES**  
**CITY of VERO BEACH, and**  
**INDIAN RIVER COUNTY**  
**Wednesday, December 17, 2014**  
**9:30 a.m.**

**For the Town:** **Bruce May & Kevin Cox**, Legal Counsel, Holland & Knight  
**Terry Deason**, Electric Rate Consultant for Holland & Knight  
**Chester Clem**, Town Attorney  
**Robert Stabe**, Town Manager

**For the City:** **Schef Wright**, Legal Counsel  
**Dick Winger**, Mayor  
**Tammy Vock**, City Clerk

**For the County:** **Floyd Self**, Legal Counsel  
**Peter O'Bryan**, Commissioner

**GUESTS:** **Carlos Alvarez**, Mediator; **Gerard A. Weick**, IR Shores Vice Mayor **Thomas F. Slater**, IR Shores Councilman; **Pilar Turner**, CoVB Council; **Tim Zorc**, IRC Commissioner; **Amy Brunjes**, FPL; **Debra Fromang**, Former CoVB Council; **Charlie Wilson**, former CoVB Council; **Steve Faherty**, PhD; Approximately 8 residents representing all entities; Reporters **Lisa Zahner & Ray McNulty**, VB 32963; **Colleen Wixson & Janet Begley**, Press Journal

**Brian M. Barefoot**, Mayor  
**Laura Aldrich**, Town Clerk  
**Wayne Coment**, City Attorney  
**Jim O'Connor**, City Manager  
**Dylan Reingold**, County Attorney  
**Terri Collins-Lister**, Deputy Clerk

1. **Call to Order**

Mr. Alvarez called the meeting to order at 9:35 a.m. He explained that mediation is a conversation between the parties dealing with a negotiation. His role is to help the parties speak more clearly and better understand the issues. It is not an adversarial proceeding, but a collaborative effort to try to resolve the matter. He asked them to consider these questions: If what is on the table does not suit us, what is the reasonable best alternative? What result could you live with? What's best for the other parties? Mr. Alvarez also encouraged them to fight for the settlement, and to remember that the mediator remains neutral, even when he asks hard questions.

2. **Opening Statements**

Mr. Alvarez said that each party had provided excellent mediation statements, so he is well familiar with the issue. He offered the opportunity for the attorneys representing first the Town, then the County, and finally the City to present a brief opening statement.

**TOWN** statement. Mr. May opened with expression of hope in fostering meaningful statements. He said that the City states the Town's dispute is for lower electric rates, which is important. But disenfranchisement of the customers is not the main concern. The City of Vero Beach has no real control of its rates or its destiny. During the conflict resolution process, it was clear that the City owns the electric utility and has contracted to sell it to Florida Power & Light (FPL), but says it's powerless to make the sale happen. It cannot bring its rates to parity with FPL, as they are locked into long term power arrangements. This was done with no input from other customers. They have made it clear that the rates will continue to be set at a level to produce surplus revenue in order to supplement its General Fund. Because of these realities, the Town does not believe the City has the power or the will to independently manage their electric utility business, and therefore cannot ensure that the Town will receive fair and reasonably priced service over the long term.

Continuing, there is no recognition that the Town has a fundamental interest and responsibility to protect its citizens from unfair rates, with express statutory powers given by the legislature to either provide this

**Please Note:** *The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in such an appeal relating to any decision made by the Council with respect to any matter considered at this meeting is responsible to record the meeting and include the testimony and evidence upon which the appeal is to be based.*

utility service itself or contract with another utility provider. Powers are expressly set forth that the Town has a right to provide electricity to the residents; the contracts extend to 1968, long before the 1986 franchise agreement. The core issue is not high rates, but whether the City lawfully has the right to exert extra-territorial monopolistic electric powers after the franchise agreement expires in November 2016. The City has no home rule powers to provide electricity to the Town. It must be clearly granted by special act or general law, and nothing has been found that does this within the special boundaries of the Town. In the spirit of collaboration, we are trying to think creatively to find a way to resolve this. We have asked that the City respect the legal rights of the Town to furnish electricity to its residents.

**COUNTY** statement. Commissioner Peter O'Bryan said the Indian River County Board of County Commissioners has long held that the best solution is to fully and completely sell the City's electric utility to FPL. When the City got involved with the FMPA, they lost control to an unsupervised authority. It passes on the costs to the ratepayers of the electric utility system. Over 60% of the rate payers reside outside the city limits. The County feels the City Council has a lack of political will to complete the sale to FPL. He echoed Mr. May's statement that the FMPA contracts put the City Council in a poor negotiating position with no leverage, and they are under the stronghold of the FMPA. He opined the City will be stronger in the future if it can extract itself.

**CITY** statement. R. Scheffel "Schef" Wright opened by stating the City's rates are higher than they wish they were. The reasons are valid, and decisions that were made in 1983, 1994, 2006, 2008, etc. involved long term commitments. The City would be happy to sell to FPL, he stated, adding that when he was brought into the situation in April, the first task was to address the sale to FPL in accordance with the terms of the contract. The FMPA had no problem with the proposal, but rather with getting the contracts to the FMPA assigned to another entity. In June this year, OUC determined they could not take assignment of the contracts without violating their bond covenant, and the FMPA would not change their bond covenant to accommodate OUC.

The City's goal, Mr. Wright continued, is to provide safe and reliable service at the lowest cost. He recounted some of the options with OUC, which has been very cooperative. Since then they have turned their attention to trying to lower rates. The recently commissioned rate study should be completed by March or April 2015, and Mr. Wright said the City is poised to issue a contract to study the City electric system's efficiency of operations. Additionally, the City is proposing a referendum and a resolution to move forward with creating a utility authority to provide geographic representation to all customers with the authority to operate the business of the electric utility system.

In conclusion, Mr. Wright reiterated that the rates were higher than they would like. They positionally believe the Florida PSC (Public Service Commission) has the exclusive and superior jurisdiction as proved by territorial agreements, and the Town has the statutory power to operate an electric utility system.

Mr. Alvarez thanked them for stating their very well identified interests, and termed it a "very fascinating problem." He said it seems that everyone will suffer a little or a lot, including FMPA and OUC.

### 3. **Problem Identification**

Mr. Alvarez identified the first problem based on the mediation statements as submitted is that the **parties want lower electric rates**. No one disagreed, and Mr. Reingold clarified that if the sale to FPL does not go through, they should be within +/-5% of the FPL rates. There should also be an electric utility authority established that is controlled by a governing board comprised of fair and proportionate representation of the geographic makeup of the customer base. Mr. May clarified that they **want lower rates for the long term**. They have been 20-40% higher over the years, with a low of 9.5% higher one year. Mr. Alvarez said the reason the rates are higher is the generation mix of oil, coal, gas, nuclear, etc. The contracts did not perform quite as expected. Mr. Wright affirmed, and added that the City was heavily coal-powered while FPL has rates driven by less-expensive gas.

The question was asked by Mr. Alvarez if anyone objected to the studies that were done, with only the OUC TPA in 2008 being mentioned. There was more discussion regarding the rates and contracts.

The second problem was identified by Commissioner O'Bryan as **no representation of Town or County residents in the utility decision making**, which he said goes along with subsidizing the City's General Fund by raising electric utility rates rather than raising taxes. He concluded that the County's position is that to take 60% of the funds for the electric utility paid for by the residents outside the City limits to subsidize the taxes for City residents was immoral and wrong, especially as they have no voice in the City elections or in the use of their money.

Mr. Alvarez asked if it would be acceptable by the County and Town to have governance of the utility that would be more representative of the entire utility customer base, provided that the rates were the same as FPL

rates today.

Mr. May clarified if the rates are equal with FPL *long term*, this may be acceptable. His research showed that over 62% of the customers are disenfranchised, outside of the utility management, which is unprecedented in Florida. The City of Key West is close, which has zero percent (0%) transferred to the General Fund. Mr. May concluded that if a utility authority was to be created, it would have control over the utilities finances, operations and rate setting, including whether to continue or discontinue the utility revenue transfer.

Commissioner O'Bryan restated that the County recommendation was a full sale of the City's electric utility to FPL to get out from under the FMPA. If the County signed a 30-year agreement with the City at rates equal to FPL, he felt it would be fair enough.

Mayor Winger pointed out that FPL was currently attempting to add millions of dollars to the rates in Oklahoma and other service areas (expanded energy development or production in wind, fracking or nuclear power. It is not illegal in Florida to include engineering development of public utilities in the charges to ratepayers.

Mr. Alvarez said the discussion must be that the management of the utility has technology surprises, or unknowns, and that going forward, the rates five years from now get fuzzy. Feeling as though you are represented in the decisions leads to more of a feeling of being control.

Mayor Barefoot clarified that an investor is accountable to the PSC, who determines the rates. If the management makes bad decisions, the shareholders will get rid of them. The FMPA has made some bad decisions, and as a result, the City, and we, will be stuck with them. We have no ability to get rid of the FMPA management, and with the contracts on the books, all of us have an unresolvable problem. It's very different than an investor-owned utility.

Mr. May added that we are not the traditional rate payer, we are a sovereign municipality that is entitled to have reasonably priced, sound utility services. It is not a traditional rate case with one ratepayer saying it doesn't like its bill. Mr. May said he applauds the City Council for trying to do the right thing, but right now, the Town has no control over the destiny and is not part of the process. Mr. May said the Town has a responsibility to its residents, and wants to be in control of its public utility destination. Past contracts with the City have essentially stripped away the right of the Town to set its rates.

Mr. Alvarez added that if FPL were to purchase the City's electric system, the rates would not be set by the Town, but they would be able to have a say with the PSC regarding the rates. He asked Mr. May how the Town would feel about this, and Mr. May said the details of the Authority are what is important. A full and fair Authority would entail having full and total control over the financial and physical operations of the utility, as well as the composition of the Board which would consist of proportionate representation elected, with three ratepayers residing outside the City on a 5-member Board.

The final problem Mr. Alvarez recognized is that **the City needs some funding from the electric utility business to fund its own general revenue.** He asked Mr. O'Connor if he agreed that was part of the problem, and he affirmed. As part of the solution, he asked Mr. O'Connor what happens if the Town and County are right and succeed in convincing whomever and go their own way in the future, and the City is left with these obligations to serve only its own residents with the electric utility, would losing 62% of the customer base taken bankrupt the City? Mr. O'Connor said they did an analysis, and it would obviously impact the property tax substantially, but it would not be as bad as Gainesville's rates are today. He added that they don't anticipate declaratory bankruptcy, as it's just one business unit of the city, so it has no real impact on the operation of the City. They can always raise taxes or lower services. Mr. Alvarez clarified that the City's 14,000 customers would have their rates raised 30%, and Mr. O'Connor said, "Correct. We have fixed costs obviously they would have to absorb." Mayor Winger said they would not be able to have lower priced power from OUC, pulling on the FMPA contracts with most expensive power, and echoed the people in Vero Beach would be faced with the 30% power rate increase. Mr. Wright said it depends on how it comes about, and repeated what Mr. O'Connor said about increasing taxes, electric rates, and/or lowering services.

Mr. O'Connor clarified there are a lot of public assets and property owned by the City, and eminent domain would not apply to acquisition of public property. The substation is part of the backbone of the entire system. If you remove the external customers, the City still owns the property in the Town of Indian River Shores that the substation sits on, and owns other property in the unincorporated west area of the County. It's not as simple as digging the poles up and removing the lines.

Commissioner O'Bryan noted the Town has no utilities, and receives its General Fund revenue from taxes. The County has the water/wastewater utility, and there is no transfer to the General Fund. The City, he opined, should charge their own residents a fair tax for the level of service they want, not one subsidized by ratepayers.

*(Mr. Alvarez called for a break at 11:20 until the meeting reconvened at 11:40, with all present as before)*

#### 4. Potential Solutions

Mr. Alvarez invited the parties to freely suggest any possible solutions, encouraging them to work collaboratively with creative thinking. He asked Mr. May to begin for the Town.

Mr. May said Mr. Wright has done a good job with laying out other rates in Florida. The case was abated and closed before the pleadings were offered. Rather than having a regulator in Tallahassee or a judge making the decision on whether the City's rates are reasonable, the Town believes a juror residing in Indian River County who has been paying the excessively high rates may be better. Considering reasonably prudent utility management as the cornerstone, not to be determined by a regulator sitting in Tallahassee, the local jurors would determine such questions as 1) are the rates prudent, and 2) is the City being unjustly enriched at the expense of the non-resident customers as a result of the utility transfer?

Mr. Alvarez said a jury decision is no panacea. He had no doubt that a 6-person jury would be confused, and it could be 12 – 18 months for this type case to be heard, which would put the Town at the limit of the franchise agreement with the potential for no resolution. Mr. May appreciated the comment, and added it was part of the risk analysis they have been working through, fully understanding that there are no guarantees and a potential risk with a jury. However, **the Town** is prepared to do that if necessary, but will now **make a settlement offer in summary**.

Mr. May the Town had prepared a settlement agreement they thought would work, as the parties were encouraged to do in the mediation letter. Mr. Wright requested copies of it in writing afterwards to discuss at lunch. Mr. Reingold also asked for the opportunity to respond.

**Settlement Structure Offered by the Town of Indian River Shores' Mediation Team.** Mr. May explained that the settlement structure is proposed to each governmental entity. For settlement, the Town offers to abate the lawsuit against the city for five (5) months to exercise its statutory rights and explore all lawful options to provide electricity to its residents. It encourages the City to submit a proposal to provide electricity for the next 30 years, as well as proposals from others and possibly to provide the service itself. As part of the evaluation process, if the City is not selected, the City and Town would enter into good faith negotiations to agree on the most appropriate terms of sale of the electric utility facilities to the Town. On or before June 1 2015, if the City and Town do agree, the Town would dismiss the lawsuit. If they do not agree to formalize on appropriate measures, the Town will take steps to continue with the lawsuit. This gives the City and Town the opportunity to evaluate different options. Meanwhile, there could be influential changes with the FMPA or other key agencies. We are facing a deadline of November 6, 2016, and this time for the Town to explore the options and hopefully to resolve the pending lawsuit. Copies were provided of the proposed settlement to the respective parties.

Mr. Alvarez asked if there were any overall questions, and discussion ensued regarding rate structures and OUC proposals.

Mr. May said the Town is aware of the analysis the City did with taxes and rates, with projections if all of the non-resident customers were to leave the system. He asked if they have done an analysis of the rates and taxes if just the Town were to leave the system. Mr. O'Connor said they did a broad (50,000') analysis of that, and since the Town is 7-8% of the customer base, that would be the impact. This does not include sensitivities such as the stranded costs that would be involved in that transaction. The impact was also not really significant in the overall view because it represents primarily residential customers as opposed to having the major commercial customers. Mr. May asked for and Mr. O'Connor agreed to provide what the Finance Director had prepared.

Mr. Alvarez asked if they had prepared a scenario for rate impact where none of the Town's or County's revenues go to the General Fund for 15 years, and Mr. O'Connor said it is about 55% of the revenue, so that would be the impact. There was more discussion about cost separation, franchise fees, the six separate utility authorities in the state, legislation for the referendum in Tallahassee, bonds and covenants for the City's electric utility, obligations to the FMPA that are secured by electric revenue, and the mechanics of the City's referendum if it encompasses all rate-payers based on how the mediation unfolds.

Mr. Alvarez said this authority has a lot of blank spaces, and the legislature doesn't say anything about it. The powers of the authority have to be identified. Mr. Wright agreed.

Prior to breaking for lunch, the mediator had agreed to allow Dr. Stephen Faherty to address the mediation teams.

Dr. Faherty stated it was important to understand that he started in 2007 with speaking to and updating each of the three jurisdictions represented here. He recounted many facts his research over the years has exposed. The outside customers provide 65% of the revenues. The Town of Indian River Shores has 20% of

its residents under FPL's jurisdiction, and 80% under the City of Vero Beach. Indian River County has 73% serviced by FPL. The County and the Town are both are charged with treating their citizens equally, which they cannot do. He mentioned the OUC contract, which was kept secret in Boston to be out of the realm of Florida Sunshine Laws in April 2008. No one knew the terms. The City has the fifth lowest property tax in the state. Rebates up to \$1500 are available to FPL customers, nothing with the City. He personally replaced three air conditioning systems in 10 years, and was not eligible for anything back. They can only have one rate to be applied to all customers, and then can have surcharges. The municipal surcharge was 10% up to 2011. This was all said to give everyone an idea with problems encountered in dealing with the City on the electric utility.

*(At 12:35 the group dismissed for lunch and reconvened at 1:38 with all of the mediation team members present)*

County Attorney Reingold wanted to make everyone aware that the County was in favor of the Town's proposal, and also wanted to be included in it.

Mr. Alvarez asked Mr. Wright for his thoughts regarding the proposal. Mr. Wright replied that the City's mediation team would not support the offer, but will take it to the Vero Beach City Council at their meeting that evening at 6. He referred to paragraphs 1. and 2. of the proposal in particular, as written below:

#### Settlement Terms

For purposes of settlement, and in return for the Town continuing to abate its lawsuit against the City, the City would:

1. Expressly acknowledge that the Town may provide electric service to its citizens upon expiration of the Franchise Agreement either through direct provision of such electric service or by contracting on behalf of its residents with another electric utility provider in accordance with the Special Act creating the Town.
2. Honor the Town's right to conduct an evaluation, which may include but not be limited to a Request for Proposal ("RFP") process, of the most appropriate means for the Town to provide electric service to its citizens upon expiration of the Franchise Agreement. In the event the Town issues an RFP, the Town would recognize the City's right to submit a proposal in response to the RFP as a potential provider of electricity to the Town and its residents after the Franchise Agreement expires.

Mr. Wright said in paragraph 1 the City was asked to expressly acknowledge that the Town can serve its citizens after the Franchise Agreement expires. He felt that this wording implies the City was giving up their position, and paragraph 2 was closely related to paragraph 1.

Mr. Alvarez suggested that a 6-month period to truly analyze this situation in a rational way would help with resources, allowing them time to focus on the resolution of the problem rather than litigation. This intense review of the options allows everyone to move forward if nothing resolves the issue, as well as time to hire enough expertise to get this done.

The Mediator said he wrote down some potential solutions at lunch, and read them as follows:

- 1) The Town's proposal; or
- 2) One or more of these (in no particular priority):
  - a. Establish an independent representative electric authority;
  - b. Reduction of General Fund contribution from the electric utility;
  - c. Amendment of obligations to OUC and/or the FMFA;
  - d. Rate reduction study that would yield other rate reduction initiatives;
  - e. Outside determination of reasonable rates;
  - f. FPL purchase; and
  - g. Outside expert on the issue retained by all parties.

He recommended that the City continue efforts with OUC and FMFA to amend their agreements, with inclusion by the Town and County to these talks so that they may address the fairness and trust issue and see how hard the City is trying to resolve this. It would also assist in a better understanding of the difficulties and legal ramifications of the negotiations. OUC in particular seems to be willing, and has a couple of proposals.

Mr. Reingold said there are some terms that are not necessarily good. Mr. Alvarez said they are making an effort, and it would be to the benefit of all of the parties if further effort is put towards this as an interim way to feel representation and part of the negotiation. Same with FPL, except some of the power agreements are presenting a roadblock. The County and the Town can retain an expert to provide other ideas in the negotiation.

Mr. May noticed that having a representative with current bond trustees was not mentioned, and Mr. Wright said it is implicit in this idea; with FMPA and OUC it would include the bond trustees. Mr. May said they would envision that during the 6-month hiatus they might have an RFP for electric provider and be pursuing other options. Mr. Alvarez did not see any problem with this.

*(A recess for discussion was held from 1:57 until 2:02 p.m. with all parties returning to the main discussion)*

Mr. Wright said the City would be willing to have a 6 month stand-still agreement; however, the document as proposed by the Town was not acceptable. He stated that Town can do whatever it needs to do regarding conducting an RFP or exploring alternatives, and the City will continue to work on the utility authority and the OUC, get the rate study done by the first of April, and the system optimization study by June. They should have a good idea of what they can do by June with the GF transfer, amending the OUC PCA, and continuing efforts to amend the FMPA. The City was also supportive of having the Town and the County representatives attend the meetings if the FMPA and OUC are comfortable having them there. Mr. Wright concluded that they will talk about the outside reasonableness of the rates.

Mr. May noted that what was missing from Mr. Wright's comment's was the core issue of the Town's right to provide electricity to its citizens, whether by the Town or by another provider. He quoted Florida Statutes, Section 180.02, Power of Municipalities, indicating that the Town needs to be in a position when the franchise agreement expires, there is no discontinuance or gap in service. He reiterated that the City has the right to submit a proposal in response to the RFP to be a potential provider of electricity to the Town and its residents.

As part of a discussion regarding tortious interference by the Town with the City regarding territoriality, Mr. May noted that the Town does not believe the City has the right to continue to serve the Town, and mentioned the Casselberry case involving the territorial agreement with Duke (FPL at the time) and OUC. Casselberry wanted to explore (having another service provider), and Duke said you can't do this, we have a territorial agreement. To avoid any potential for another lawsuit by the City for tortious interference, we need some type of agreement.

Mr. Wright agreed to sign a separate waiver of tortious interference claim, should the Town chose to conduct an RFP with other providers of electricity. Mr. Alvarez suggested adding the wording allowing the Town to conduct an RFP and insert a tortious interference clause to the Town's proposal in paragraph 2. He also suggested there would have to be some kind of arrangement with the new provider if the Town or County were to pull out to avoid a stranded investment. Mr. May agreed this is an issue to discuss, but the Town does not feel that there will be one. We want the City to sit and talk in good faith, and want to see if we can work with this before litigation.

Mr. Wright noted this is an interim settlement, and the proposal is too broad.

*(A recess for discussion was held from 2:18 until 2:25 p.m. with all parties returning to the main discussion)*

Mr. May said the Town cannot agree with the standstill agreement structure as proposed by the City. In the spirit of cooperation, paragraph 1 will be removed and the language discussed would be added to paragraph 2. With the City's rate study set to be completed in March, the Town's mediation team asked to shorten the abatement term to May 1, 2015, expressing concern with the November 2016 franchise agreement expiration.

Mr. Reingold and Mr. Wright discussed that the report back to their government at this point is an impasse until a settlement proposal is agreed upon. Mr. Alvarez agreed this is not a product to take back to the governing body, but instead this process relies on the representative parties to support it or not. He said they may be able to move the next session to May 1.

Mr. Wright said the optimization may not be done by May or June 1<sup>st</sup>, and they are already pursuing it regardless of what the Town is doing.

*(A recess was called at 2:53, with all parties resuming the discussion at 2:59)*

Mr. May said the Town wants certainty, and they presented a definitive settlement proposal. It was not clear to the Town's team what the City is proposing. There seems to be an agreement that we can delay this and review the options. He summarized that the Town can do an RFP and the City can participate if they want. The Town can proceed if all fails with the City.

The City is willing to look at all of the options, Mr. Alvarez stated. Allowing the County and the Town to participate in the negotiations opens the effort and creates trust. This is one community, not three, and we are all neighbors. There are expenses involved in having a joint representative in the negotiations, but it may be less than going forward with individual suits. Instead of calling it a cooling off period, he suggested it be

termed an “option review” period. Mr. Alvarez said he appreciates what the Town did, and suggested rewriting the agreement to capture the intent.

Mr. May said they believe the proposal captured what is needed to resolve the dispute. Being observers in contractual obligations is good, but we are not party to the action. Mr. May said the Town will continue to abate the lawsuit until March 2, and asked the City to continue to pursue all options to reduce rates, with an outlined status report from them of where they are by mid-February.

Mr. Wright agreed to provide an update to the parties by February 18, 2015.

Mr. Alvarez said if no agreement is reached by March 2, 2015, he will call an impasse.

Mr. May agreed to write the draft Interim Mediation Agreement and email it to everyone.

Mr. Alvarez asked the County if they would defer their meeting set for February 3, 2015 regarding its Petition for Declaratory Statement, and Mr. Reingold was reluctant, as the Commission was set to go forward with that meeting.

Mr. Wright stated again that the City agreed to no tortious interference and would sign a letter stating so. He added that they are only agreeing that talks can take place, and not to implementing anything proposed by the Town. They discussed the current contracts and meetings with the involved parties. Because of the busy holiday season, the teams agreed to have an interim agreement in place by January 8.

## 5. Public Comment

Peter Gorry, a member of the City of Vero Beach Finance Commission, stated he was representing his own perspective. Some of his comments: the City’s contract is in place with FPL until the end of 2016, the valuation of the facilities (\$116 million is the value of some which are outside the city limits), the rates are set by the PSC with no input from Florida ratepayers, and there is a dividend FPL pays from their earnings to their shareholders that COVB residents do not receive. He quoted Fitch bond rating in August 2014: VBE has adequate, favorable profile, continued improvement in financial performance. He concluded that the sale to FPL is unlikely, not impossible.

Charlie Wilson, President of the Vero Beach Chamber of Commerce, noted the costs of litigation do not come close to the costs to the citizens at \$20 million per year and for the last 36 years. They have promised better rates all of this time. He said it could get worse if the City agrees with OUC for take or pay. The City has had many chances, and now is left with no authority, and the FMPA can say no. He perceived solutions to come either through litigation or legislation, recalling a comment from the FMPA that they are like the mafia, you can never get out.

Mark Mucher, resident of Vero Beach, was concerned about the City’s risk assumed by being in the utility business at all, and they should do what they can to get out of it. He believed that the creation of a utility authority was a “feel good thing,” but it would not make a difference in terms of decisions or rates.

## 6. Adjournment

Mr. Alvarez concluded that Mr. Wright would write a letter of Waivers and Consents by the City and FPL, and asked Mr. May to draft the Interim Mediation Agreement with the option review period by Friday, December 19, 2014.

Mr. Alvarez made it known that he was available if anyone needs anything, and thanked everyone for the cooperative and collaborative fashion of this meeting.

The meeting was adjourned at 3:33 p.m.

Respectfully submitted,

/s/ \_\_\_\_\_  
Laura Aldrich, Town Clerk

(Approved by the Town Council at the **February 26, 2015** meeting)