

**VERO BEACH UTILITIES COMMISSION MINUTES
TUESDAY, AUGUST 10, 2021 – 9:30 A.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Chairman, Jane Burton; Vice Chairman, John Cotugno; Members: Mark Mucher, John Sanders, Judy Orcutt and Indian River Shores Representative, John McCord
Also Present: Water and Sewer Director, Rob Bolton; Finance Director, Cindy Lawson; Assistant City Attorney, Jenny Flanigan and Deputy City Clerk, Sherri Philo

1. CALL TO ORDER

The Chairman called today's meeting to order at 9:30 a.m.

2. APPROVAL OF MINUTES

A) May 25, 2021

Mr. Cotugno made a motion to approve the minutes of the May 25, 2021 Utilities Commission meeting. Mr. Sanders seconded the motion and it passed unanimously.

3. PUBLIC COMMENT

None

4. NEW BUSINESS

A) Discussion Regarding City vs County Rates – Ms. Cindy Lawson, Finance Director

Ms. Cindy Lawson, Finance Director, explained that she wanted to have a discussion regarding County rates versus City rates because there is the misperception that County rates are cheaper and in reality they are not necessarily cheaper. They are just different. She said that she would discuss rate making in general first and then discuss some of those differences. She explained that rate making is about rate sufficiency. You have to have more revenue than expenses to run the utility. Within that, there is also decision making about how to allocate certain components of the rates and everyone makes their decisions differently. She stated that it is very common for utilities to have tiered water rates and the more water you use the more expensive it becomes per 1,000 gallons. She reported that the highest City tier is \$6.95 per 1,000 gallons and the highest County tier is \$9.75 per 1,000 gallons. This is another decision you might make about how much to put into the base rate against how much to put into your consumption charges. Another example is that most utilities will cap sewer consumption because they assume above a certain level that it is not going down the drain, but going into your yard or swimming pool. She reported that the City caps sewer consumption at 10,000 gallons and the County caps sewer consumption at 12,000 gallons. She then gave a brief overview of the chart provided in the backup information, "*Inside City vs Outside City (County) Residential Rates – Total Water & Sewer Bill (total bill including all service charges, fees and taxes*" (attached to the original minutes). She explained that the blue line represents the City and the red line represents the County, which shows how the City's customers all in bill tracks against the County's

all in bill and how the distribution of customers in the different groups of consumptions looks for all the residential customers outside the City limits. She reported that the City is moving towards having a rate study done next year, which will be coming before the Utilities Commission for their recommendations to the City Council so she wanted to start discussing rates and rate making.

Mr. Mucher said that he watched the meeting that the City had with the County and was curious as to why the City had made the decision to back out of their policy of charging County rates to the class of customers who chose County rates over City rates.

Ms. Lawson stated that there are two (2) different customers in that that category. There are people in the unincorporated County that the City serves and there are people in Indian River Shores (IRS). Those are two (2) different sets of circumstances with regards to the rates.

Mr. Monte Falls, City Manager, reported that the City is going to do a rate study in the near future. They are looking at a new franchise with the County and are currently working through the details. The City currently has a franchise agreement with IRS and he has had some very preliminary discussions with Mr. Jim Harpring, Indian River Shores Town Manager, on what the City would like to see as they move forward with the construction of the Water Reclamation Facility (WRF). He explained that they don't have all the details where they can sit down and talk about those at this point, but he anticipates having those within the next 30 to 60-days.

Mr. Cotugno asked is there a breakdown on the number of customer in the south county, within the City limits, and in IRS.

Ms. Lawson reported that she has it broken down by the number of customer accounts and Indian River Shores is about 16%, outside the City limits is about 22%, and about 61% inside the City limits. She noted that as they talk through this with IRS and with the people in the south county, they need to make sure people understand that having County rates is not necessarily an advantage. Comparing the projected City rates once they build the WRF to current County rates with just a Consumer Price Index (CPI) on them is not a good comparison either. She explained as they looked at the potential rate impact of building a new WRF they compared it to what the City would have to do to the current Waste Water Treatment Plant to bring it up to the standards of Senate Bill 712. The do nothing option is not an option. She noted that the County is in no different shape than the City is. The County has not had the opportunity to look through an analysis of what it will cost them to bring their Utility into compliance with Senate Bill 712. She said the City is doing their best to work through this with all their customers and they want to make sure that all their customers have the facts and understand that staying with County rates might not necessarily be advantageous to them.

Mr. Cotugno asked what is the total number of customers versus the percentages.

Ms. Lawson said the total count is 12,945, with 2,180 in IRS, 2,906 outside the City limits, and 7,931 inside the City limits.

Mr. McCord asked can you do an adequate rate study without knowing how many users you are going to have.

Ms. Lawson explained that the City could do an adequate rate study based on the users they do have and then do an impact analysis based on the potential loss of customers.

Mr. McCord asked can you do a rate study without knowing what the new facility is going to cost.

Ms. Lawson answered no. She said that is why the City is not going to undertake a rate study until next year. She explained that the engineers should be on board in September and they will do the design and give a cost estimate by the time the City undertakes a rate study that would include those costs.

Mr. McCord said the City is in a situation where they could lose IRS and now they have the people in the south beach area who are raising the same concerns. His concern with this Commission, who is responsible for making suggestions or recommendations, is where is Vero Beach with their customer base in making a commitment to build a facility that is at risk losing about 22% of their customer base and not have any costs. He showed a copy of the 32963 newspaper stating that the City has a significant clash with the County, which was a debacle at best. His point is that the City was trying to throw IRS under the bus and it didn't work.

Ms. Lawson said the City is not going to build a Waste Water Plant if they don't know how many people they are going to serve. Between now and next year the City is doing their best, whether through the resolution of lawsuit or through negotiations to try to sort them all out. All she is trying to do is make sure that as they sort this out that the customers who are trying to decide what they would like to do have the facts on the table.

Mr. McCord said that Ms. Lawson's intentions sound good, but the practical matter is when you change rates and then try to cut a deal with Indian River County to throw IRS under the bus, then the Commission has got to say, is what they are saying in fact the real reality of the situation. He said it is great to say one (1) thing, but in actuality these lawsuits didn't come out of nowhere. He said IRS is looking at the County to provide them with water. He asked that they look at the history of how the City has handled their relationships with the County and with IRS.

Mr. Falls said that he appreciated Mr. McCord's comments. He reported that the City had some issues with IRS regarding the City's reuse rate. That is the only issue they had with IRS at this point. He said the City is in discussions with the County that have been ongoing for some time over the service territory and they have gotten close to solving that. He referred to the article in 32963 newspaper noting that those were not words from the City or from the County, but words from the article. He said the City has had some fruitful discussions with the County about the service territories, which they have not been able to solve at the staff level, but they feel comfortable and confident that they will resolve it when the City Council and the Board of County Commission gets together. He said the City has provided water and sewer service to the south barrier island and to IRS for over 50-years. He said they have had a long relationship with them and hope to continue them. The City looks at IRS and south beach not only as customers, but as neighbors. The City

wants to do what is best for this community in building a new WRF to get the Waste Water Plant off the river. He said the City is going to build a new WRF and they will have something that will set a standard for this community and for this part of Florida. Hopefully as the City and the County moves forward all the waste water treatment facilities will be built to the state of the art that this WRF will be.

Mr. Sanders asked how often do municipalities do rate studies.

Ms. Lawson said the City has not had a rate study done in about 10-years and it is well overdue. She explained that part of the reason the City has not had one in so long was because a few years ago they gave 40% of their customer base to someone else's rates versus someone else's costs. She said the City is going to do a rate study to figure out what the City should be charging their customers based on the City's cost of service and kind of right size that for now and what the City charges the other two (2) groups of customers will depend on the outcome of the conversation that Mr. McCord brought up. She noted that this is something that the City has endeavored to do for some time and they will be completely transparent. She said the City is being transparent with the numbers right now and anyone is welcome to see the data that went behind their analysis. They are telling the Commission the truth about where the City's rates sit right now and where the County's rates sit right now. She noted that the County adopted a rate increase in November, 2020 that the City didn't put in place even though they had the right to. They are doing their best to be transparent, to move forward with the facts, and to be fair.

At this time, the Chairman asked the Deputy City Clerk to perform the roll call.

Mr. Rob Bolton, Water and Sewer Director, explained that rate studies are usually done every five (5) years and there are a lot of cities that are doing rate studies right now because of Senate Bill 712, because of Covid, because of increases in costs, etc. He reported that the County did a rate study two (2) years ago and they hadn't had one done in 20-years.

Mr. McCord said a few years ago the Department of Environmental Protection (DEP) made some observations that the condition of the City's facilities were not up to par.

Mr. Bolton said they had a sanitary survey done a few years ago, which the Utilities Commission discussed multiple times, although Mr. McCord was not a part of the Commission at the time. He said there was nothing wrong with water quality. He explained that there were some issues with some leaks on some of the walls where the packing was and there were areas that needed to be painted, which the City addressed.

Mr. McCord asked Mr. Bolton if he ever received a letter from the DEP confirming that the City remedied all of their complaints.

Mr. Bolton answered yes.

Mr. McCord asked Mr. Bolton to provide the Commission members with the letter.

Mrs. Orcutt referred to the sewage infrastructure. She stated that according to the Clean Waterways Act (Senate Bill 712) by July 1, 2025, the City is going to have to have

inspections of all the pipes, etc. She said when the City begins doing these inspections she would like the Commission to receive an update at each of their meetings about what they are finding. She knows they have reuse water running in the pipes under the Lagoon and it would be nice to know if those pipes are in good shape.

Mr. Bolton stated that they would not be inspecting those pipes. They would be inspecting the gravity sewer systems.

Mrs. Orcutt questioned that doesn't count as an underground pipe leak.

Mr. Bolton said they are in the process of making the rules and once they are done he would explain the rules to the Commission members.

Mrs. Burton said they also need to keep track of new requirements for discharge. She said that is very critical and is something that they are addressing with the new system they are proposing to build.

The Chairman opened public comment at 10:05 a.m.

Mr. Doug Demuth referred to the chart that was discussed during Ms. Lawson's presentation. He asked how long has that rate structure been in place.

Ms. Lawson reported that the rate structure for the City has been in place for 10-years, the County updated their rates a few years ago, and the City entered into the original agreement with IRS in 2012.

The Chairman closed public comment at 10:06 a.m., with no one else wishing to be heard.

5. OLD BUSINESS

None

6. CHAIRMAN'S MATTERS

A) Discussion Regarding Request to add Stormwater under the Purview of the Utilities Commission

Mrs. Burton reported that she would be making a presentation to the City Council on behalf of the Utilities Commission at their August 17, 2021, meeting regarding adding stormwater under the Commission's purview. She asked the Commission members if they had any comments that they want her to make in support of this and if they don't have any comments today they could send their comments to the City Clerk's office to be sent to her and she would add their comments to her presentation.

7. MEMBER'S MATTERS

A) A Proposal for Extending STEP System Implementation Within the City's 32963 Service Area – Requested by Mr. John Cotugno

Mr. Cotugno gave a presentation on “*Extension of 32963 STEP Implementation through Expansion of Current Public-Private Partnership*” to the Commission members (attached to the original minutes.)

Mrs. Orcutt said that she is in favor of all they could do to get people to connect and appreciates Mr. Cotugno for bringing this forward. She then referred to the notice that was sent out to the homeowners within the City limits on the mainland (attached to the original minutes). She said it appears that they were being offered the same incentives that were offered to the residents on the barrier island. She said that she was having a hard time understanding what Mr. Cotugno is proposing that is different. As far as figuring out ways to expedite people connecting, she thinks the biggest problem they have with the program is that they have the “carrot,” which is the credits and financing and then there is the “stick,” which is the inspection. She thinks what they are having a problem with now is the “stick” because they have several people who failed their inspection, but the “stick” isn’t there as to what happens when an inspection fails. She doesn’t know why the City’s Ordinance doesn’t say “if you fail the inspection, you must connect to the STEP System.” She asked if they could change the Ordinance to state that if you fail inspection then you are obligated to initiate connection procedures as soon as possible.

Ms. Jenny Flanigan, Assistant City Attorney, reported that the City Council recently amended Section 78-83 of the Code changing the inspection period from every five (5) years to every three (3) years.

Mrs. Orcutt said but this wasn’t discussed.

Ms. Flanigan said the mandatory requirement has come up several times and she felt that at this time the City Council preferred the “carrot” method.

Mrs. Orcutt said that she would like the Ordinance to state that if you fail inspection then you must connect to the system. She felt it loses credibility if they don’t have some immediate action, such as the rule being that you have to get your septic system inspected to make sure that it is in compliance with the City’s rules, whatever rules the City creates, not the State, and if it fails the City’s set of standards then they must connect.

Mr. Bolton said the first question would be, what is the City’s set of standards.

Mrs. Orcutt said that is right and it is worth discussing.

Mr. Bolton said the policy has been that they follow the State’s rules so they would first have to revamp the entire inspection process to determine what the policy would be.

Mr. Sanders said they are talking about a “stick” and a “club” and he doesn’t think anyone wants a “club.” He understands that Mrs. Orcutt is passionate about water and the runoff into the Lagoon, which they all are, but you can’t ask for something that has been in place for a long period of time to change that quickly.

Mrs. Orcutt said as part of Senate Bill 712 there is a requirement that municipalities create a septic remediation plan.

Mr. Bolton said they have one, which is the STEP System.

Mr. Cotugno felt that they needed to provide some incentives for people to connect other than if their system fails.

Ms. Lawson said the City has given financial incentives by giving discounts and 10-year free financing and the source of funds for that is the repayment of the refinancing because the City has a lien on the property that assures the repayment. If they are talking about stepping across the boundary to loan people money or giving people money, the City does not have the staff or the capacity to treat it like a grant program, etc. She said there are rules about municipalities loaning people money for private work and she wasn't sure if, as a municipality, they could extend loans to people.

Mr. Sanders said if you want a STEP System you could have it installed and there are ways to get financing.

Mr. Bolton said that he knows of one (1) inspector that has their own financing. He said that he could poll the other inspectors to see if they offer financing.

Mr. Falls said that he is all about trying to make processes better and the City is moving forward and will have all the systems in the City's service territory connected one (1) day and he knows that they all would like for that to be yesterday.

The Chairman opened and closed public comment at 10:52 a.m., with no one wishing to speak.

B) Update on the Wastewater Treatment Plant Relocation– Requested by Mr. John Cotugno

Mr. Bolton reported that the engineering firm has been selected, they have the scope narrowed down, and they are putting together the fee schedule. He hoped to have approval sometime in September to move forward with the design.

The Chairman opened and closed public comment at 10:56 a.m., with no one wishing to be heard.

C) Update on any Financial Impact to Rates for the New Plant – Requested by Mr. John Cotugno

Ms. Lawson reported that until they have the engineers on contract and they have an actual schedule for better cost estimates and the need for funding, that is when she would be able to develop a more detailed schedule for the rate study, as well as for the actual financing vehicle.

The Chairman opened public comment at 10:58 a.m.

Mr. Doug Demuth said one (1) thing a lot of people on the island are concerned with is what if IRS pulls out.

Ms. Lawson explained that they would not finish designing or building the Plant until they have an answer to that question. She noted that if they don't have IRS a substantial amount of the costs would go away, both for the construction of the facility and the operation of the Utility.

Mr. Demuth said as an engineer with over 40 years of experience he can say that when you get into capital projects of this nature there is a base cost associated with the engineering, site preparation, etc. He would think that this number could be estimated. He felt that all the numbers could be recast so they could get some sense of the cost.

D) Discussion on the Efforts that South County Residents Have Undertaken on Splitting Off From Vero Beach's Service Area – Requested by Mr. John Cotugno

Mr. Falls reported that the City filed a Chapter 164 Conflict Resolution with Indian River County over the Service Territory Agreement. They have held staff level meetings and to date staff did not reach a resolution so they are in the process of setting up by Chapter 164 a joint meeting of the City Council and the Board of County Commissioners.

The Chairman opened public comments at 11:08 a.m.

Ms. Lori Barkhorn said that she works with Mr. Demuth on the Youth Coalition of Leaders from the South Beach area. She reported that the two (2) of them along with the others of the south barrier island have always taken the approach that they are in this as a fact finding mission to try to understand what the implications of costs could be. Their specific goal is that they want transparency, they want to understand what the rates are, they hope to work and have influence on maintaining or gaining competitive rates, and they want to go back and share that information with the people they represent.

Mr. Falls said that staff has met with this group twice and Ms. Lawson has spent hours with Mr. Demuth answering questions and providing information. He said staff will continue to do that so that they can get the information out so people can look at the facts and judge them for what they are.

8. ADJOURNMENT

Today's meeting adjourned at 11:10 a.m.

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