



January 5, 2016

STATEMENT FROM MAYOR BRIAN BAREFOOT
REGARDING REQUEST TO PSC FOR JURISDICTIONAL DETERMINATION

As we begin the New Year, significant activity is underway in our electric system dispute with the City of Vero Beach. You may recall that last month our Town filed an amended complaint in Circuit Court seeking damages for unreasonable rates charged by Vero Beach in breach of our franchise agreement, and a declaration regarding the Town's rights to control its rights-of-ways and public areas after the franchise agreement expires.

Today, our Town filed a narrowly focused request with Florida's PSC in Tallahassee, asking for a clear determination of the PSC's jurisdiction with regard to the unique Constitutional and statutory issues our Town faces. Though our request is straightforward, the issues that drive it are somewhat complex.

The Circuit Court recently said that it has no jurisdiction to resolve a constitutional question asking whether our Town has a right under Florida's Constitution to be protected from unwelcomed exercises of extraterritorial powers by Vero Beach, and suggested that the Town could pursue the issue at the PSC. The Circuit Court rendered this statement after counsel for the PSC advised the court that this issue was for the PSC to decide.

Last year, however, the PSC refused to issue a declaratory statement to Indian River County in its electric system dispute with the City of Vero Beach, ruling that similar constitutional and statutory issues fall outside the PSC's jurisdiction and belong in the courts.

Given these developments and the unique nature of our complaint against Vero Beach, it is important that we clarify our rights before determining next steps. We must understand, based on past orders from the PSC and the Circuit Court, which legal authority has the appropriate jurisdiction to rule on the constitutional questions we have posed.

It's also important to remind our citizens as well as all Vero's electric customers that the questions we have presented are unique to our factual situation, are limited to balancing the rights of two equally-independent municipalities, and do not apply broadly to other local governments or utilities. Under Florida's Constitution, a municipality like Vero Beach has no inherent authority to unilaterally exercise municipal powers outside of its corporate boundaries and within the corporate boundaries of an equally independent municipality like the Town unless the Florida Legislature provides such extraterritorial powers by general or special law. We believe that Vero Beach does not have the requisite statutory authority to unilaterally exercise extraterritorial powers within the corporate limits of the Town without the Town's consent.

As we enter the New Year, we look forward to arguing our positions before both the Circuit Court and the PSC.

At the same time, we also welcome an opportunity presented by Vero Beach Mayor Jay Kramer to potentially find a solution to the crisis we face. I recently met with Mayor Kramer to discuss the offer that was made earlier this year by FPL to purchase the City's utility facilities in our Town. The City's consultants responded to FPL's offer by including a price that was nearly five times what FPL offered, essentially eliminating any potential for a negotiated sale.

Mayor Kramer and I have agreed to ask our respective Councils for the authority to have our rate and legal consultants meet to discuss FPL's offer and the underlying facts driving the vastly different values given for Vero Beach's electric facilities in our Town.

It is my hope that this discussion will lead to a better understanding of FPL's initial purchase offer and the opportunity such offer provides for a holistic solution to our electric rate crisis and other issues facing Vero Beach, while at the same time bringing real benefits to Vero Beach, its residents and all of Vero's remaining customers.

As always, I will continue to keep residents informed as we move forward.

Brian M. Barefoot
Mayor
Indian River Shores