

**CITY OF VERO BEACH, FLORIDA  
FEBRUARY 3, 2015 9:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

A moment of silence was held followed by the Pledge of Allegiance to the flag.

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Richard Winger, excused absence; Vice Mayor Jay Kramer, present; Councilmember Pilar Turner, excused absence; Councilmember Amelia Graves, present and Councilmember Randy Old, present. **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mrs. Tammy Vock, City Clerk, requested that item 4-B-1) a Resolution urging member cities and the Board of Directors of the Florida Municipal Power Agency to support and adopt certain actions in response to the recent Florida Auditor General Operational Audit of the Agency, be added to the agenda.

Mr. Kramer asked the Council how they felt about adding this Resolution to the agenda since there were only three Councilmembers present.

Mr. Old felt comfortable moving forward.

Mr. Wayne Coment, City Attorney, reminded Council that the vote would need to be unanimous in order to add an item to the agenda.

Ms. Graves made a motion to adopt the agenda as amended. Mr. Old seconded the motion and it passed unanimously.

**B. Proclamations**

None

**C. Public Comment**

**1. Mr. George Young to talk about Bob Summers Baseball Field.**

Mr. George Young, Vero Beach Baseball Association, explained his Association is requesting to lease Bob Summers baseball field in order to offer a premier baseball

training facility. The facility will include batting cages, pitching areas, and a state of the art baseball diamond. They have five travel ball teams currently that will rent the field for their practice and games. The money received will go towards water, electric and field maintenance. They will run concessions with proceeds also going back to field maintenance and improvements. The field will be open to any other organization that would like to rent it. He said the Dog Park people are very happy to have them utilizing this field.

Mr. James O'Connor, City Manager, stated that if Council approves the request then he will bring a lease back to Council at their next meeting. He felt that this was a good compatible use for the ballfield and the Dog Park operation.

Ms. Graves asked if there was another ballfield available if a Dad wanted to take their kids out to play some baseball.

Mr. O'Connor stated that the ballfield will still be open to the public.

Mr. Young explained that if there is another organization that wants to use the field they are welcome to, but they will need to pay for the lights. If they use the field in the daytime there would be no charge. He said because of liability issues he would not want someone going out and using the field without scheduling it with him first.

Ms. Graves had some concerns that they would no longer have an open field for the public to use.

Mr. Young assured her if someone calls and wants to use the ballfield that they will work with them. He said they will not turn any children or parents away. He reiterated that liability was their biggest concern.

Mr. Coment stated that he will bring back a lease at their next Council meeting for Council to consider.

Mr. David Hunter, Eagle Drive, requested that Mr. Jim Bass be able to make some comments first because of some other commitments that he has and will need to leave the meeting early.

Mr. Jim Bass, former CEO of Piper Aircraft, commented about short term rentals. He said that he moved to Vero Beach because of the quality of life, but feels that the central beach area is being threatened by short term rentals. He said in Vero Beach alone there are 28 properties that are short term rentals. He said that short term rentals destroy neighborhoods and increase crime. They create unwanted commercial activity in a residential neighborhood and the landlords of these homes disregard the Codes in place. He said when the violators (property owners) are cited they feel the penalties are meaningless. He felt that the City Council must restructure the system so that the Code Enforcement Officers report to the Police Department. If this Council fails to take some action then the window of opportunity will close and time is running out. He said in the

block that he lives in there are four short term rental homes. He said that he lives on Date Palm Road. He reiterated that the quality of the neighborhood is deteriorating. He has the means to move, but many of his neighbors do not. He hoped that Council would consider these points. He gave the website of VRBO.com as a place for the City to find where some of these short term rentals were being advertised.

Mr. Coment went over the Ordinance that the Council recently adopted dealing with this. He said the Ordinance clarifies vacation rentals. Their Code Enforcement Officers have been instructed to move forward in enforcing action on these people who have short term rentals. He feels by having this revised Ordinance in place that if they should have to go to Court again, the City would have more "footing" this time.

Mr. David Hunter agreed with Mr. Bass's remarks about this. He appreciated what the City Council is intending to do and was encouraged by what Mr. Coment has said about the clarification in the Code. He said that is the only umbrella they have to protect them. He knows for a fact that people in the City who own short term rentals are ignoring the Code. The \$50.00 penalty is not stopping them from continuing to rent their home out short term. He gave an example of a home located on Eagle Drive, where the advertisement on the internet states that the home sleeps 10 people and is available on a weekly basis. He expressed that these people don't care about the City's law. He gave the website address for Verovacationrent by owner where 28 rentals are listed in the central beach area. He knows where most of those rentals are located and named a few of the streets. He said if the Code Enforcement Officers cannot find these properties then he wonders what they are doing. He passed out some information to the Clerk outlining some of these websites and the vacation rentals that are available (please see attached). He then brought up the events on Dahlia Lane where a short term rental turned into a major crime wave. He commented that he has been working on this problem with short term rentals for several years now trying to prevent it and control it. He realizes that the new Code has been put into place, but commented new short term listings are still occurring. Some people have just bought these properties within the last year and are turning them into mini-hotels. He said with the situation on Dahlia Lane the Police Department did an effective job in following up with this incident. A copy of a letter was sent to the Mayor outlining the property owner's concerns (please see attached letter). He feels the property owner where this incident occurred is breaking the law for renting the property out, which is against Code. However, the real victims are the property owners that live on this street. He suggested forming a Task Force to help identify ways to restrict this activity. They also need to look at beefing up their penalties. He hopes to see more action taken quickly to try to address this problem. He said what took place on Dahlia Lane should be a wake-up call.

Mr. O'Connor expressed that his staff would be happy to work with the Task Force Committee.

Mr. Hunter agreed with looking into transferring the Code Enforcement Officers to the Police Department. He said a lot of things happen at night and on the weekends when the Code Enforcement Officers are not working.

Mr. Mark Mucher, 617 Indian Lilac Road, understood the limitations and problems that Code Enforcement is under. He suggested that a letter be sent out from the City to these different websites telling them advertising these short term rentals is illegal in the City of Vero Beach. He recalled a case that went before the Planning and Zoning Board concerning a boarding house located in the central beach area.

Mr. Jim Shay, 3536 Mockingbird Drive, commented on a short term rental home that is directly across the street from where he lives that is being rented for \$1,800 a week. He said that short term rentals bring crime and is a disregard for the quality of life to our community. He said with the rental home located across the street from him there are a lot of parties that take place and the noise becomes very loud at times. The City Council has an obligation to enact the appropriate laws to stop this behavior. They may need to hire lobbyists to take this to the state level. He lived in Pine Key (Key West) and there was a short term rental in the neighborhood where at times there were so many cars parked in front of the house he had to park a couple of blocks away from where he lived in order to get home. He said eventually the neighbors pitched in and purchased the home and sold it to a nice family. He said that he would be taking the names and phone numbers of the people who wanted to be involved with the Task Force Committee.

Mr. O'Connor expressed that the City took the Carroll case to Court and lost, which gave the City the motivation to change their Codes.

Mr. Randy Fryer, 902 Seagrape Lane, recalled that he used to have a short term rental home located next door to where he lives. He said there would be wedding receptions held there, parties, garbage everywhere and a firm disregard for the law. He said fortunately the house was sold and now a nice family lives there with two children and it is wonderful. He expressed that this community does not need these short term rentals.

Mr. Paul Roderick, owns a home on Ocean Drive, expressed what a special place Vero Beach is and it needs to be protected. He named some other websites that are out there. He knows that the challenge is daunting to stay ahead of technology. He suggested at least requiring a copy of the person's drivers license who is renting the home.

Mr. Paul Colver lives two houses down from the rental home on Dahlia (mentioned earlier in the meeting). He said that their future is with the City Council, which they now consider them the Home Owner's Association. He wished them the best and hoped they could control this.

Mr. Herb Whittall commented that he was afraid that the house next door to him might turn into being a short term rental. He recently sent out an email to the Mayor concerning the house that is located across the street from him (on file in the Clerk's office). He said the property owner now has received a permit to erect a 2-foot wall around his pool. He knows that the wall probably looks nice inside around the pool, but for the neighbors who have to look at it from the outside, it is just cinderblock and looks awful. He felt that these permits issued should be properly looked at and there needs to be an Ordinance put

in place that a person cannot get their certificate of occupancy until proper landscaping has been put in. He said that the City has this for commercial property, but not for residential property. Also, it is enforced in the Town of Indian River Shores.

Mr. Kramer asked Mr. Coment if he could look into bringing them some ordinances from other places where landscaping is required before a certificate of occupancy is issued.

Mr. Coment explained that some of these things the City has no control over. They are under the Florida Building Code and handled by the Building Department.

Mr. Tim McGarry, Planning and Development Director, stated that the one reason the City has not acted on these vacation rentals was because they were holding off until the new regulations were put into place, which was last month. Now they are actively looking at the internet and the advertisements out there for short term rentals. He said the change in the Code now allows them to do something about this advertising. They have already cited a \$50.00 penalty to the rental home located on Dahlia Lane and will be looking at stronger penalties. The property owner has been told that he needs to stop this kind of activity or he will be fined again and brought before the Code Enforcement Board and then the fine could start being assessed on a daily basis.

Ms. Graves asked what is the maximum fine that could be imposed.

Mr. Coment explained how the process works. He said the initial fine is for \$50.00 and then depending on how many repeat violations there are it could eventually get up to \$250.00. A case does not go before the Code Enforcement Board unless the violator refuses to pay the fine or they ask for a hearing before the Code Enforcement Board.

Ms. Graves asked if they have to start at \$50.00. Mr. Coment told her that Council could adopt different penalties for this type of violation.

Mr. McGarry said that he would push for that.

Mr. Coment commented on the fight that the entities are having with the Legislature over these short term rentals. He said that the Legislature has made it harder for them in regards to enforcement.

Ms. Graves felt that if the penalty becomes more than an owner is getting from the revenue on these short term rentals then maybe they will stop renting them out short term.

Mr. Coment would bring back some new language to Council for their review, which would allow starting the penalty for short term rentals at \$250.00.

Mr. Old asked how they could stop this advertisement for short term rentals on the internet.

Mr. McGarry did not think that they could. He expressed that he only has two Code Enforcement Officers and they are doing everything they can to help with this issue and stay within the frame work of State law.

Ms. Graves was concerned about the things that take place after hours or on the weekends when the Code Enforcement Officers are not working.

Mr. McGarry said that the Code Enforcement Officers will go out on weekends if they have to. He will send letters out to the local real estate offices telling them that short term rentals are illegal in the City of Vero Beach. He said that this is a tough issue to deal with and they rely on property owners to call them and let them know if this does occur in their neighborhoods.

Mr. Coment explained that the Code Enforcement Board acts as a civil process. If they were dealing with the “crime” side, it would have to go before the Courts.

Mr. Kramer agreed with putting a Task Force Committee together to address this issue. He asked Mr. McGarry what websites do they track.

Mr. McGarry did not want to divulge the names of the different websites, but was familiar with the ones that have been mentioned at the meeting today. He said it would not be a bad idea for him to send a letter to the different websites notifying them that this is an illegal activity. He then brought up Mr. Whittall’s concerns. He said that he spoke with the property owner who lives across the street from Mr. Whittall. The property owner told Mr. McGarry that he is cleaning up his backyard. Mr. McGarry told the property owner that he is making life difficult for his neighbors and he hoped that he would take care of his property. Mr. McGarry will follow up to make sure that the property owner has received the proper permits for the wall that he put up around his pool. He said that the City is doing all they can do concerning this piece of property.

Ms. Ann Belcoff, 619 Dahlia Lane, told Council that she hoped they would consider the things that they have heard this morning. She hoped that they have put back in their Ordinance the 30-day rule for short term rentals. She asked the City if changes are made regarding things in their neighborhoods that the property owners be sent a letter or post card about what the changes are. She has been on different websites that list short term rentals and has found 48 properties relating to vacation rentals. She heard Mr. McGarry say that he is following up on these short term rentals and if that was true then he would have sent letters out to these 48 property owners. She expressed how helpful it is that the community knows what is going on.

Mr. Hunter understood that Mr. McGarry has a small staff and suggested using college students to help do some of the research on the website to find out where these short term rentals reside. He questioned why the City does not require a license for short term rentals like the State does. Mr. Coment told him that if they required a license then they would be saying that they allow short term rentals. Mr. Hunter closed by saying that he liked having sting operations.

Mr. David Curry, Police Chief, went over what happened on Dahlia Lane. He said on Sunday, January 18<sup>th</sup> the Police Department received two noise complaints. Then on January 19<sup>th</sup> they found that the home was in disarray and a number of televisions were missing from the home. There were also two other homes in the neighborhood that had been burglarized. They are still working on the case and feel that the burglars were from Dade County. He thanked the residents for reporting the incidents to the Police Department.

Mr. Old asked Chief Curry if there was anything that they could do about these websites.

Chief Curry said from what he heard today they are proceeding in the right way. He offered his assistance in working with the Task Force Committee.

Mr. O'Connor asked Mr. Hunter to get him the names of the people that he wanted to serve on the Task Force Committee.

Mr. Joseph Guffanti, 441 Holly Road, reported that he read an article that appeared in the Press Journal on Sunday January 25<sup>th</sup> concerning the spending of FMPA. He commented on the unexplainable perks that these people receive. They are gangsters running FMPA and OUC and they continue to launder money and they are not in the business to provide power. That is just their front. On January 29<sup>th</sup> in Vero Beach 32963 another article appeared commenting on how well paid the employees of FMPA were and it talked about risky investments they have made and their over spending. He recalled when the City found out about FMPA engaging in speculating the price of gas, he told Council at that time that part of the money was being laundered. He said why anyone would get involved in FMPA is beyond him. He recalled at the last meeting, Mr. Old had stated that there were things concerning FMPA that he still did not understand and was trying to get a handle on them. He appreciated when someone recognizes their ignorance. He felt the best thing happening in the City of Vero Beach is the lawsuit and pressure they are receiving from the County and Town of Indian River Shores. He hoped that members of FMPA would be deposed under oath. He would also like to know the yearly salaries that the CEO's of FMPA and OUC make.

### **3. CONSENT AGENDA**

- 1. Regular City Council Minutes – January 20, 2015**
- 2. Indian River Farms Water Control District Permits and Interlocal Agreements (VB-2 through VB-9)**
- 3. Funding Request from the Veterans Memorial Island Sanctuary Advisory Committee to restore the Pearl Harbor monument**
- 4. Annual Reports from City Commission/Boards**

Ms. Graves made a motion to adopt the consent agenda. Mr. Old seconded the motion and it passed unanimously.

Mr. Kramer thanked the members of their Commission and Boards for all of the hard work and time that they continuously give to the City of Vero Beach.

#### **4. PUBLIC HEARINGS**

##### **A) ORDINANCES**

- 1) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 73, Tobacco Products, of the Code of the City of Vero Beach, related to the use of Electronic Cigarettes; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by Councilmember Ameila Graves**

The Clerk read the Ordinance by title only.

Mr. Coment reported that this Ordinance will prohibit the use of e-cigarettes in any place within the City wherein the Florida Indoor Clean Air Act prohibits smoking, and would provide for the same exceptions to that prohibition. In addition, they have added the exception for retail e-cigarette shops as requested by Council. The other modifications made to the Ordinance was moving definitions previously reference in the text to the definitions section and adding a definition of “retail e-cigarette shop.” In addition, the purpose and intent language was slightly modified to comport with the changes to the Ordinance.

Mr. Kramer opened the public hearing at 10:48 a.m.

Mrs. Leslie Spurlock, Chair of the School Health Advisory Committee, read an email sent to the Council by one of their Board members, Mrs. Judy Orcutt (on file in the City Clerk’s office).

Dr. Foreman, Pediatrician for Treasure Coast Community Health, told Council that this was an excellent Ordinance and commended Council for passing it.

Mr. Kramer closed the public hearing at 10:50 a.m., with no one else wishing to be heard.

Mr. Old made a motion to adopt the Ordinance. Ms. Graves seconded the motion and it passed 3-0 with Mr. Old voting yes, Ms. Graves yes, and Mr. Kramer yes.

##### **B) RESOLUTIONS**

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, urging other member cities and the Board of Directors of the Florida Municipal Power Agency to support and adopt certain actions in response to the recent Florida Auditor General Operational Audit of the Agency; Providing for an Effective Date.**

Mrs. Vock read the Resolution by title only.

Mr. Kramer opened and closed the public hearing at 10:51 a.m., with no one wishing to be heard.

Ms. Graves noted that Council received a copy of Resolution 15-01 from the Town of Indian River Shores regarding the Florida Auditor General's Operational Audit of the FMPA and the plans of the City of Vero Beach in response to the audit (please see attached).

Mr. O'Connor reminded Council they are in litigation. He said this Resolution was sent to both Mr. Wright and Mr. Frost who had input in drafting it and recommend approval.

Mr. Old stated that it was very important that they react to this audit and suggest that FMPA take some action.

Mr. Old made a motion to adopt the Resolution. Ms. Graves seconded the motion and it passed 3-0 with Mr. Old voting yes, Ms. Graves yes, and Mr. Kramer yes.

**5. ORDINANCES AND RESOLUTIONS FOR FIRST READING BY TITLE  
(FUTURE PUBLIC HEARING REQUIRED)**

**6. CITY CLERK'S MATTERS**

None

**7. CITY MANAGER'S MATTERS**

**1) Electric System Optimization Study, RFP 190-14/JO**

Mr. O'Connor reported that Council approved the ranking for the Electric System Optimization Study on January 6, 2015. He said that staff has developed an agreement including the scope and pricing with Power Services. The scope, and estimated schedules for major elements include: 1) Generation Site Options, 2) Transmission and Distribution Planning, 3) Resource Adequacy, 4) Other Optimization Strategies, and 5) Pole attachment agreement and rate analysis. Completion of the study and implementation of the recommendations will result in cost savings which may be passed on to their customers through more efficient service and lower rates. Other recommendations may include options for improved reliability and planned improvements. He said Power Services proposes to perform these services for a fee not to exceed \$175,000. He would recommend approval of the contract.

Ms. Graves asked if there was a time line in place. Mr. O'Connor told her where the time line was addressed in the contract agreement.

Mr. Kramer opened this part of the meeting up for public comments. There were no comments made from the audience.

Mr. Old made a motion to approve the contract for the Electric System Optimization Study with Power Services. Ms. Graves seconded the motion and it passed unanimously.

## **8. CITY ATTORNEY'S MATTERS**

Mr. Coment informed Council that he just received word that the Public Service Commission (PSC) agreed with the City's position on their Declaratory Statement and denied the County's petition.

## **9. CITY COUNCIL MATTERS**

### **A. Old Business**

None

### **B. New Business**

None

## **10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

### **A. Mayor Richard Winger's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mayor Winger was absent from today's meeting.

### **B. Vice Mayor Jay Kramer's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Kramer reported that he attended a movie organized by Compassion Vero entitled "Kindness is Contagious." He also attended Art by the Sea, the Vero Beach Performing Arts 10<sup>th</sup> Anniversary and flipped pancakes for the Treasure Coast Pilot Club.

### **C. Councilmember Pilar Turner's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mrs. Turner was absent from today's meeting.

**D. Councilmember Amelia Graves' Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Ms. Graves reported that she also flipped pancakes for the Treasure Coast Pilot Club and thanked the Garden Club for all they do for this community.

**E. Councilmember Randolph Old's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

**11. ADJOURNMENT**

Today's meeting adjourned at 10:58 a.m.

/tv