

**CITY OF VERO BEACH, FLORIDA
SEPTEMBER 1, 2015 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Randy Bryant of Ryanwood Fellowship followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

Mayor Richard Winger, present; Vice Mayor Jay Kramer, present; Councilmember Pilar Turner, present; 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

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

B. Proclamations

1) Hunger Action Month – September 2015

Ms. Graves read and presented the Proclamation.

2) Mental Illness Awareness Week – October 4-10, 2015

Mr. Old read and presented the Proclamation.

3) Proclamation given to Vero Beach Art Club thanking them for the work that they did on the Mural at the Bethel Creek House

Mr. Kramer read and presented the Proclamation.

C. Public Comment

1) Request from Mrs. Jane Burton, Treasure Coast Pilot Club, to have permission to sell alcohol at their Autumn in the Park event.

Mrs. Jane Burton, Treasure Coast Pilot Club, asked permission to be able to sell alcohol at their annual Autumn in the Park event. She briefly went over the different projects where the money that is raised by this event helps fund.

Mr. Kramer made a motion to approve the request. Ms. Graves seconded the motion and it passed unanimously.

2) Mrs. Barbara Hoffman, Cultural Council Executive Director, to give an update on the Cultural Arts Village.

Mrs. Barbara Hoffman, Executive Director of the Cultural Council, read a prepared statement (please see attached).

3) Mr. James Gray, Coastal Engineer for Indian River County, to speak on the nearshore hard bottom.

Mr. Gray was not at today's meeting.

Mr. Charlie Wilson, President of the Vero Beach Chamber of Commerce, appeared before Council earlier in the year to go over the events that the Vero Beach Chamber of Commerce had been planning for and they have had three (3) of those events. They had over 14,000 people attend the Pirate Festival and he thanked City staff for all of their help. He said the Board of the Vero Beach Chamber of Commerce believes that there are other economical issues facing this community other than the selling of the utilities. The reason he was at today's meeting was to talk about the state of the economy in the City of Vero Beach. He noted how many vacant buildings there are on US1 and how it is becoming a blight area. He mentioned the recent layoffs at Piper and that Dockside Grill has now closed. He said that Indian River County has the 7th highest unemployment rate in the State of Florida and they have been in the top 10 for the last 22 years. That says they are doing something wrong. He said only 37% of the people in Indian River County work and in the City of Vero Beach one in three people work. The utility bill at the Indian River Mall last month was \$97,000 and according to the Manager at the Mall they have trouble keeping tenants at the Mall because of the CAM costs. He said because the City of Vero Beach increased the Downtown Post Office's rent so much they are moving their business part out of the downtown location. He said they haven't made a decision about the entire Post Office moving as of yet. He said the Post Office now only has three (3) employees at the downtown post office and it is not feasible to have any more employees there because of the high rent and high electric rates that they have to pay. He told Council that this is something that they should look at. Mr. Wilson informed Council that the Vero Beach Chamber of Commerce will be forming an Economic Development Council. He mentioned the present Indian River County Economic Development Council that is currently in place consists of more than half of government workers. The new Economic Development Council that he is forming will consist of people throughout the community and they will be focusing on providing jobs to people in this community. He made it clear that the Vero Beach Chamber of Commerce does not take any government money. He mentioned that on September 22nd

the Vero Beach Chamber of Commerce will be hosting a “mixer” and will be inviting all of the candidates for the upcoming Vero Beach Election to attend. The event will be held at the Patio Restaurant. He hoped the candidates would be able to join them to talk to the business people.

Mayor Winger agreed with Mr. Wilson that there are not enough jobs in this community.

Mr. Jason Brown, Indian River County Finance Director, was at today’s meeting to talk about the one-cent sales surtax. He mentioned that Mr. Coment put this item on under his matters for discussion (moved up on the agenda). He explained that the Florida Statutes authorizes a County discretionary sales surtax up to one-cent for a period of up to 15 years, if approved by the voters of the County, for the funding of infrastructure of the County and municipalities within the County. The voters of Indian River County approved the one-cent discretionary sales surtax for the period of 15 years at a referendum held on March 14, 1989 and in 2002, the voters of Indian River County approved an extension of the one-cent discretionary sales surtax until December 31, 2019. He said before taking the issue to the voters, the Board of County Commissioners wanted to express their support of extending the tax and also seek such support from the municipalities within Indian River County. He requested that Council ask their Attorney to draft a support Resolution for their consideration and discuss it at their September 15th meeting. The County Attorney will be present to answer any questions that they might have.

Mr. Jim O’Connor, City Manager, stated that staff wholeheartedly endorses this. He said there would be some infrastructure projects that couldn’t be done when they needed to be without this funding.

Mr. Mark Mucher stated that he fought against this when it came up before and he will fight against again. He read an article that he wrote that was published in the Press Journal asking the voters to vote against this.

Mr. Ken Daige commented that having this one-cent sales tax in place has helped out the cities located in Indian River County, as well as the County. He said it is used for capital projects. He suggested that at their Thursday budget meeting that it be outlined what projects the money will be used for in the future.

It was the consensus of Council to bring back a Resolution supporting the one-cent sales tax at their September 15th meeting.

Dr. Stephen Faherty commented that he has heard that the amended OUC contract will be coming before Council at their September 15th Council meeting. He said if the Utilities and Finance Commission members review it on September 14th that is only one day before the Council is being asked to vote on it at their September 15th meeting. He said this is being run-through just like the original OUC contract was. He felt that both the original contract and the proposed new contract need to be provided. He said some of the details that he has received so far give some cause for rate decreases now, but indicate

there may be rate increases in later years. He was also concerned with the minimum amount of power to be purchased. He then read a prepared statement.

Mayor Winger asked Mr. O'Connor to explain what contract is out there now.

Mr. O'Connor explained it is the proposal sent back to OUC from the City, which is an amendment to the existing contract. He said the rate page shown in the contract is a big part of their negotiations. He has not heard anything about there being a rate increase (referring to Dr. Faherty's comments). He said it is critical that everyone knows that this is just a rough draft. They can read through the document and see what is being changed by the strike through words and sentences. Staff would try to have the document to the Finance and Utilities Commission early next week giving them enough time to review it before their September 14th meeting. He said it was wishful thinking that the contract would be implemented by October 1st.

Dr. Faherty commented that from what Mr. O'Connor has just said it is an amended contract and not a brand new contract.

Mr. Mark Mucher commented that he keeps hearing that there will be a savings of \$750,000 a month and he would like to know where that figure is coming from. He said instead of posting the old contract and then the new revision, he would like to see a comparison between the existing and the proposed contract.

Mayor Winger explained in the amended contract there are only five (5) pages that have material changes. He gave the logic of how Mr. Schef Wright, Attorney, came up with the \$750,000 savings each month.

Mr. Mucher did not think that the electric customers would see those savings in the first month the new contract is implemented.

Mayor Winger said that is why this Council is being so transparent. They want these numbers worked out to their satisfaction and to the public's satisfaction.

Mr. O'Connor added that part of the discussion with OUC is trying to figure the level over a period time to stabilize their rates and give them a true projection of what the rates really are.

Mayor Winger agreed that has to be done and made public and it has not at this point in time.

Mr. Louis Schlitt thanked Council for the job that they do. He commended Dr. Faherty for all of his time that he has put forth on the electric issue. He felt the need for better communication on the matter. He said that he worked with the City for many years on different projects. His company at one time insured the Power Plant when it was first built. He said now is the time to get rid of the Power Plant because it is not insurable

anymore. He thinks that FPL is their friend and good to them and the utilities need to be sold to them. He said let's move forward in getting out of the electric business.

Mrs. Phyllis Frey was at today's meeting to discuss the Transit Oriented Development, in which she read a prepared statement (please see attached).

Mr. Richard Biolosky asked Council that when the time comes for them to look at the Cultural Arts Village that they keep an open mind. He said it will be an open creative process with a lot of public input.

Mr. Ken Daige spoke on the Cultural Arts Village concept and was thankful for having the Cultural Council helping with this. He said there is a Team made up of citizens throughout the County who have been working on this. They reached out to the Treasure Coast Regional Planning Council (TCRPC) to help them with their plan. They are not asking for any type of grants. So far all of the funding has come from private funding. He explained this started because some residents from the Edgewood Subdivision reached out for some help in their neighborhood. He invited Council that before going to the charrette to go and look at this neighborhood. He said they just need help and it is about helping people. This neighborhood surrounds the Freshmen Learning Center. He thanked Council for their support.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – August 18, 2015**
- 2. License Agreement #2015-LA-0251 – Scarlett H. West – Dock & Boatlift Constructed on City-owned Submerged Lands – 16 Sea Horse Lane**

Mrs. Turner made a motion to adopt the consent agenda as presented. Mr. Kramer seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

(Legislative)

- A) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 2013-40; Establishing Prices and Fees for Crestlawn Cemetery; Establishing Hours of Operation; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Public Work's Director**

Mayor Winger read the Resolution by title only. He opened and closed the public hearing at 10:47 a.m., with no one wishing to be heard.

Mr. O'Connor reported that this Ordinance establishes the lower prices for columbarium niches at Crestlawn Cemetery, which will improve the revenue stream at the Cemetery.

Mrs. Turner referred to page 1, where it reads that “the City Council has determined that it is in the best interest of the residents of the City of Vero Beach to modify burial lot and columbarium prices to ensure that Crestlawn Cemetery and the cemetery fund will continue to be self-sustaining.” She said this is not an accurate statement. The Cemetery is not self-sustaining and this wording needs to be changed. She brought up that an outside contractor handles the digging for the open and closing of the graves. She wondered if this is something that could be done in-house.

Mr. Monte Falls, Public Works Director, explained that the cost of digging the holes for the vaults is not borne to the City. He said that in order for the City to do this work they would have to purchase the equipment to dig the holes. He said that the Funeral Homes pay for the cost to do this and it is not borne by the City.

Mrs. Turner stated that if they provided this service they might be more financially stable at the Cemetery.

Mr. O’Connor said that staff will look into seeing if there was any cost savings in doing this.

Ms. Graves made a motion to approve the Resolution with the amendment that the Cemetery will “become” self-sustaining. Mr. Old seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative)

B) An Ordinance of the City of Vero Beach, Florida, relating to the City’s Septic Tank Effluent Pump (“STEP”) System Program; amending certain subsections in Section 78-83 in Chapter 78 of the Code of the City of Vero Beach related to payment options for Step System charges and fees; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by the City Attorney

Mayor Winger read the Ordinance by title only.

Mr. Wayne Coment, City Attorney, reported that this Ordinance makes it clear what the payment options for the STEP system charges and fees are.

Mayor Winger opened and closed the public hearing at 10:50 a.m., with no one wishing to be heard.

Mr. Kramer made a motion to approve the Ordinance. Mr. Old seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative – First of Two Required Public Hearings)

C) An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations, Part II of the Code of the City of Vero Beach, relating to Medical Marijuana Dispensaries; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director

Mayor Winger read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, reported that the proposed regulations address the location, development standards, and operations for dispensing of medical marijuana. He said other than a few minor edits the Ordinance is the same as the one previously adopted by the City Council in November 2014. He said staff has reviewed the Ordinance and feels that it is as good as the first Ordinance that was adopted in November 2014. He said the day that Council adopted that Ordinance was the same day that the Ordinance was sunsetted because the amendment to the Constitution failed. He said now there is another amendment proposal. The Florida League of Cities is encouraging municipalities to have an Ordinance in place so they have enacted their zoning and land use powers. He noted that there have been a lot of conditions placed on this, which are outlined in the Ordinance.

Mayor Winger asked if there were other industrial areas that this could be opened up to.

Mr. McGarry said they could not find any. He explained this is not an Overlay District, so they are not changing the zoning regulations.

Mrs. Turner commented that she was glad to see that they were being proactive and moving forward with this Ordinance.

Mayor Winger opened the public hearing at 10:54 a.m.

Mr. Ken Daige referred to the proposed Ordinance and read excerpts from page 1, page 2, page 3, and page 4. He noted in Section 62.654 (2) it states the conditional use requirements and special conditions are not to be located within 1,000 feet of any school, child daycare facility, public Park, or other existing medical marijuana dispensary or within 500 feet of any residentially zoned property. He asked Council to please consider in this “M” zoning that there are residential dwellings that reside there. He said there are some rental apartments, as well as some older homes located in the M zoning. He asked Council to include occupied residential dwellings and do the 500-foot mark. He said these dispensaries do have an adverse affect on the community and he wanted them to do everything they could to protect their residents. The first page of the Ordinance reads that the City Council has determined that it is in the best interest of and would serve to promote and protect the public health, safety, and welfare to regulate the location and operation of medical marijuana dispensaries in the event the State of Florida legalizes such facilities. He said please protect their residents that live in the M zoning. There are some mobile home parks that reside in the M zoning and these residents need to be

protected. He said all they would need to do is tweak the Ordinance some to protect people who reside in the M zoning.

Mr. Old commented that one of the main things is the fact that a conditional use still has to be approved.

Mr. Daige briefly went over the piece of property that he is very concerned about. He said as a City they need to do as much as they can to protect their people. He said there are people living in the Industrial Zones and they need to be protected. He said if they need to cut the footage down to 500 feet or less to please do that.

Mrs. Turner asked Mr. McGarry if there was anything that they could do.

Mr. McGarry explained that residential dwellings are not allowed in the M zoning. He said if there are people living in the M zoning then they have been grandfathered in or are living there illegally. He said if they add the words “occupied residents” then you may not have any areas that meet this and they might as well prohibit it. It is a conditional use and they will have to look at the neighborhood. He said by picking out a piece of property it is getting into a quasi-judicial application. He recommended that Council move forward with the Ordinance as written. He reiterated that he felt this was a good Ordinance.

Mr. Kramer asked if this Ordinance extends to all M zoning. Mr. McGarry answered yes.

Mr. Daige reiterated that there are people living in the M zoning and it is their job to do the best they can for the citizens of this community. It is not fair to have these people burdened with this. He said whatever they have on the books they can fight and defend regardless of what the State does.

Mr. Kramer pointed out that there were two (2) mobile home parks in this area. He was shown on the map the area that they are talking about and the mobile home parks are not included in this area.

Mr. Coment expressed that if the State says that this is legal then they (the City) needs to have something in place, which is the reason for this Ordinance.

Mrs. Turner made a motion to set the second public hearing on this Ordinance for September 15, 2015. Mr. Old seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative)

D) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 2009-26; Adopting Updated Rules and Fees for the Vero Beach Municipal Marina; Providing for an Effective Date. – Requested by the Marina Director

Mayor Winger read the Resolution by title only.

Mr. Tim Grabenbauer, Marina Director, requested that Council pass this Resolution, which would allow them to raise the rates for dockage, dry storage, and moorings at the City Marina. He said that the last rate increase was done in 2009 and there has been an inflationary rate of 9% since 2009, which would support this increase. He said that the Marine Commission unanimously approved the rate increase.

Mr. Kramer asked if the amount of money they make on gas is a percentage. Mr. Grabenbauer explained it is a fixed margin. He said when the gas price goes lower, the Marina makes money because of credit card charges.

Mayor Winger opened and closed the public hearing at 11:16 a.m., with no one wishing to be heard.

Mr. Kramer made a motion to adopt the Resolution. Ms. Graves seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative)

E) An Ordinance of the City of Vero Beach, Florida, Amending Section 82-31 in Chapter 82 of the Code of the City of Vero Beach, relating to Vehicles for Hire; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by the Police Chief

Mayor Winger read the Ordinance by title only.

Police Chief David Currey explained the reason for amending their Vehicles for Hire Ordinance was to add Uber to their list of types of services. He said yearly applications are required to be filed and it lets them (the Police Department) know who is operating these vehicles.

Mrs. Turner asked why they needed this.

Ms. Graves said there are eight (8) or nine (9) Uber services offered in this area.

Chief Currey noted that he has not dealt with any of the Uber services yet, but this gives them the tool to know who is operating these vehicles.

Mr. Coment added that if the Legislature creates some statewide regulations that perhaps the City would be grandfathered in by having this Ordinance in place.

Mrs. Turner asked if other municipalities are enforcing these regulations. Chief Currey told her they are.

Mr. Old added that he heard it discussed at the Florida League of Cities conference that he recently attended that a lot of other communities are doing this.

Mayor Winger opened and closed the public hearing at 11:19 a.m., with no one wishing to be heard.

Ms. Graves made a motion to adopt the Ordinance. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative)

- F) An Ordinance of the City of Vero Beach, Florida, Requested by Robert Rennick to amend Chapter 31, Boats and Waterways and Chapter 63, off-street parking and loading requirements of the land development regulations related to the leasing of dock, dock space, and boat slips to non-tenants in C-1A and C-1B Zoning Districts; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date – Requested by the Planning and Development Director**

Mayor Winger read the Ordinance by title only.

Mr. McGarry reported that in Section 31.05(g) of the City Code it specifically prohibits the “renting of docks, dock space, or moorings” except in Marina zoning districts. However, renting of the dock facilities is allowed in nonresidential districts where the docks and moorings and their rental are accessory to the principal use, and the individual renting the dock space or mooring is a tenant of the principal use and owner of the boat utilizing the rental space. Recently, the City Code Enforcement staff ramped up its investigation of probable violations in Royal Palm Pointe. As part of the investigation, Mr. Rennick was cited for violation of Section 38.05(g). He admitted his violation and entered into a compliance agreement with the City. The agreement was structured to allow Mr. Rennick sufficient opportunity to seek a change in the Land Development Regulations. Subsequently, Mr. Rennick’s attorney discussed with the Planning Department staff its support for any changes and possible amendments to the dock regulations. The revised language was presented to the Planning and Zoning Board for its consideration. The text amendments would allow owners of waterfront properties in the C-1A and C-1B zoning districts to rent dockage space or boat slips to non-tenants of their properties subject to development approval. The proposed revision to Section 63.04(b) adds parking requirements for leased dock space and boat slips be consistent with what is required of Marinas. At the public hearing that the Planning and Zoning Board held there were several owners of residential properties along the canal south of Royal Palm Pointe attending the meeting and raised concerns regarding the proposed text amendments and the potential adverse impacts on their properties and use of the common canal. Staff noted that any renting of docks, dock space, and boat slips would be governed not only by the dock regulations in the Code, but would be subject to the provisions of a license agreement for use of City-owned real property. Owners of any properties zoned C-1A and C-1B on Royal Palm Pointe that desire to rent dock space or

boat slips to non-tenants would be required to obtain a license agreement from the City. Any license agreement would require City Council approval and could be terminated at any time. On a unanimous vote, the Planning and Zoning Board recommended approval of the proposed revisions to the Standard License Agreement based on staff's recommendations, which is attachment C located in their backup material.

Mr. Kramer expressed that there were a lot of neighbors in this area who had some concerns. He asked if their questions have been answered.

Mr. McGarry felt that their questions were answered, but said that some neighbors don't want it regardless of what is done. The neighbors were invited to a post meeting held on this matter and no one showed up. He also mailed out agendas of today's meeting to the neighbors and he does not see anyone in the audience to speak on this Ordinance.

Mr. Bruce Barkett, Attorney from Collins, Brown, Caldwell, Barkett, Garavaglia & Lawn, and representing Mr. Ron Rennick, stated that he felt that the neighbors questions had been answered at the Planning and Zoning Board meeting. He noted that after the meeting he spoke to a lot of the neighbors.

Mayor Winger opened and closed the public hearing at 11:25 a.m., with no one wishing to be heard.

Mr. Kramer made a motion to adopt the Ordinance. Ms. Graves seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

Council took a five-minute break and the meeting reconvened at 11:30 a.m.

5. RESOLUTIONS

A) A Resolution of the City of Vero Beach, Florida, Providing for an Airport Leasing Policy; Repealing and Replacing Resolution 2007-18; Providing for Conflict and Severability; Providing for an Effective Date – Requested by the Airport Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that City staff and their Tax Attorney, Mr. Ben Phipps, have reviewed their current Airport lease language and recommend that this Resolution be passed, which clarifies existing Airport leasing policy, updates language to current conditions, and effectuates the legislative intent that rental for the use of real estate, which may be charged sales tax, is sufficiently distinguished from privilege, franchise, or concession fees paid to Airports, which are not taxable. The changes also incorporate language designed to establish that construction costs for improvements to the real estate are not rental payments for the use of the real estate or for the right to occupy the premises. The appropriate language addresses the ad valorem taxability of buildings and

other improvements leased to Airport tenants only which such buildings, or other improvements are owned by the tenant. The companion item to this Resolution is the Third Addendum to the lease agreement and updated Attachment B between the City and Paris Air, Inc. (item appears under City Manager's Matters).

Mayor Winger opened and closed the public hearing at 11:36 a.m., with no one wishing to be heard.

Mrs. Turner asked that concession fees be explained.

Mr. Eric Menger, Airport Director, explained that there are several different ways to handle leases at the Airport. He said with the changes in the State law if this language is not put in their leases the Airport would have to charge sales tax on fees in addition to charging their tenants rent, which is not what they want to do. He said the only thing they want to charge their tenants is for the rental fees that they owe.

Mr. Kramer made a motion to adopt the Resolution. Ms. Graves seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

6. PUBLIC NOTICE ITEMS

None

7. CITY CLERK'S MATTERS

None

8. CITY MANAGER'S MATTERS

A) Paris Air Inc., Third Addendum to Lease Agreement and Updated Attachment B (Effective: September 1, 2015)

Mr. O'Connor and Mr. Menger reported that this lease agreement includes the modifications that were discussed in the Resolution that appeared on the agenda (item 5-A) and the same modifications will need to be made to several other tenant leases for City Council's consideration as soon as staff can gather all the signatures from the other impacted tenants. Mr. O'Connor would recommend approval of the Third Addendum to the Paris Air lease agreement.

Mayor Winger opened and closed the public hearing at 11:39 a.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Third Addendum to the Paris Air lease agreement. Mr. Kramer seconded the motion and on a roll call vote the motion passed 5-0.

Mr. Kramer asked Mr. Menger to give them an update on the possible airline service.

Mr. Menger stated that he hopes to have all the necessary requirements met so that Elite airlines can start operating at the Vero Beach Regional Airport on November 2nd. He said they are in the process of working with the TSA and will probably be calling on Congressman Posey for his assistance.

Mrs. Turner asked for an update on the recent court hearing that was held between the City of Vero Beach and the Town of Indian River Shores.

Mr. Coment reported that both sides presented their arguments on a motion to dismiss. He said that Mr. Wright and Mr. Frost split up the argument. Mr. May (Attorney for the Town of Indian River Shores) made his arguments. He feels their case law is strong and State statutory law dealing with the Public Service Commission (PSC) is very clear on the subject. He said the Judge presiding was Cynthia Cox and she usually is quick in making her ruling. She indicated that they would have that ruling within 60-days.

Mr. O'Connor added that there was an attorney for the PSC who also spoke outlining the State law and the position of the PSC.

Mayor Winger asked what were the next steps concerning the old Diesel Plant.

Mr. Coment reported that Attorney John Frost would be working with current Attorney Eugene O'Neill on that case. He said this is a very important case for the City so they will be dividing the work. The trial is set for September (docket call). He said their tenants for the old Diesel Plant have sued the City on various counts and one of them being fraud, which they feel should be thrown out. The City countersued for eviction and back rent. He said that Judge Cynthia Cox would also be ruling on this case.

9. CITY ATTORNEY'S MATTERS

A) Council to discuss passing a Resolution supporting the One-Cent Sales Surtax

This item was heard earlier in the meeting.

Mr. Kramer recalled at their last meeting he brought up possibly selling the Postal Annex property and it was mentioned that a gas station could possibly go on this site. He has received some calls from concerned residents who do not want to see a gas station built on this piece of property.

Mr. O'Connor cautioned Council against putting restrictions on the property because it drives down the appraisal price.

Mayor Winger commented about the concern of what the highest use of this property would be, but said something should be done with the property.

Mr. O'Connor said that the Dodgertown property is another piece of property where because of where it is located when they get ready to sell it there could be a lot of public input.

10. 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**

No report was given.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer was so happy that the whole Council turned out for the dedication of the mural at the Bethel Creek House. He recently attended the ELC open house. He reported on the recent Economic Development Council meeting where there was discussion that there might be an algae farm coming to Indian River County. He reminded the public about the Art Gallery stroll on Friday night and the Oceanside Sunset Saturday event.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner commented that she recently was taking care of a friend who has been diagnosed with cancer. She reminded everyone the importance of early detection in order to fight this disease.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves was happy that they did not have a hurricane.

E. Councilmember Randolph Old's Matters

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

Mr. Old was also happy that they did not have to go through a hurricane and he did not have to put up his shutters.

11. ADJOURNMENT

Today's meeting adjourned at 11:51 p.m.

/tv