

**CITY OF VERO BEACH, FLORIDA
JUNE 19, 2012 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Pilar Turner, present; Vice Mayor Craig Fletcher, present; Councilmember Jay Kramer, present; Councilmember Tracy Carroll, present and Councilmember Richard Winger, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

B. Invocation

Associate Pastor Terry Alderton from Lakeside Fellowship Church gave the invocation.

C. Pledge of Allegiance

Mayor Turner led the Council and the audience in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mrs. Tammy Vock, City Clerk, pulled item 3-B) from the agenda.

Mrs. Carroll added under City Manager's Matters item 7-A) Discussion of Crestlawn Cemetery.

Mr. Kramer made a motion to adopt the agenda as amended. Mrs. Carroll seconded the motion and it passed unanimously.

B. Proclamations

- 1. Non-Profit Organizations Unite Month – July 2012**
- 2. Recognizing Lifeguards**
- 3. Treasure Coast Waterway Cleanup Week – July 16-22, 2012**
- 4. Certification of Appreciation – Rains Insurance**

Mayor Turner read and presented the Proclamations and Certificate of Appreciation.

C. Public Comment

Mr. Joseph Guffanti commented that the City spent eight million dollars developing Royal Palm Pointe with the bridge itself costing 18 million dollars. He asked Council to make a public statement about where they stand on the Police Department issue and direct the City Manager to stop leaning on the Chief of Police to give demotions to some of the Police Officers. He said that everyone knows that the City is going to have to raise taxes because the City is in bad financial shape and the Council owes it to the citizens of Vero Beach to know what is going on with the Police Department because a lot of people are concerned.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – June 5, 2012**
- 2. Monthly Capital Projects' Status Reports**

Mr. Fletcher made a motion to adopt the consent agenda. Mr. Kramer seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) A Resolution of the City of Vero Beach, Florida, approving the Transmittal to the State of Florida Department of Economic Opportunity a proposed City of Vero Beach Comprehensive Plan Text Amendment to the Land Use Element; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning Department**

The City Clerk read the Resolution by title only.

Mr. Tim McGarry, Planning and Development Director, explained that this Resolution, along with the companion Ordinance, will be transmitted to the State and other reviewing agencies. This text amendment to the Land Use Element of the Comprehensive Plan is to include small-scale recreational activities compatible with and subordinate to an existing governmental utility. The need for the text amendment came to light as the community identified potential nontraditional options for siting recreational activities, principally to be operated by not-for-profit organizations. By amending the text it will provide for more efficient use of underutilized public lands and buildings and serve an important public interest in providing further opportunities for public recreation uses.

Mayor Turner opened and closed the public hearing at 6:21 p.m., with no one wishing to be heard.

Mr. Kramer made a motion to approve the Resolution. Mr. Fletcher seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

- B) An Ordinance of the City of Vero Beach, Florida, Amending the Text of the Land Use Element of the Vero Beach Comprehensive Plan by Revising Table**

1.8, Appropriate Uses of the Government/Institutional/Public Land Use Classifications; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning Department

This item was pulled from the agenda.

- C) An Ordinance of the City of Vero Beach, Florida, Amending the Text of the Land Development Regulations of the Vero Beach Code to add Recreational Uses within the M, Industrial Zoning District; Providing for Conflict and Severability; Providing for an Effective date. – Requested by the Planning Department**

The City Clerk read the Ordinance by title only.

Mr. McGarry reported that the proposed text amendment to Section 62.48, Permitted Uses of the M, Industrial Zoning District creates a new paragraph that adds as a permitted use, recreational uses in co-location with a City owned utility, subject to limitations on the total floor area of buildings occupied less than 7,500 square feet and uses that occupy existing buildings without expansion. The only other area having an M, Industrial Zoning District is at the Airport and any use change at the Airport would require the City to get approval from FAA.

Mayor Turner opened and closed the public hearing at 6:23 p.m., with no one wishing to be heard.

Mrs. Carroll made a motion to approve this Ordinance on the first public hearing and move it to the second public hearing on July 17, 2012. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll yes, Mr. Fletcher yes and Mayor Turner yes.

- D) An Ordinance of the City of Vero Beach, Florida, Requested by Vero Property Investment II, LLC, to amend the Text of the Land Development Regulations of the Vero Beach Code to Add Adult Congregate Living Facility and Nursing or Convalescent Home to the Permitted Uses and Development Guidelines of the C-1, Commercial Zoning District; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning Department**

The City Clerk read the Ordinance by title only.

Mr. McGarry explained that the applicant, Vero Property Investment II, LLC, submitted a request to amend the text of the land development regulations of the City Code to add Nursing or Convalescent Home and Adult Congregate Living Facility to the permitted uses and development guidelines in the C-1 Commercial Zoning District. He said that the proposed amendment is consistent with the overall Commercial District purpose statement in particular the allowance of residential, hotel or motel uses and the proposed

uses have similar characteristics as the uses already permitted in the C-1 district. The development guidelines for the proposed permitted uses are generally the same as the other non-residential uses in the C-1 zoning district, including specifically hotel-motel density up to a maximum of 30 units/rooms per acre minimum lot size of 1,450 square feet per unit or room. The Planning and Development staff and the Planning and Zoning Board recommend approval of the Ordinance.

Mayor Turner opened and closed the public hearing at 6:26 p.m., with no one wishing to be heard.

Mayor Turner made a motion to approve the Ordinance on the first public hearing and set the second public hearing for July 17, 2012. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

E) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the Period beginning October 1, 2011 and Ending September 30, 2012, by increasing the General Fund by \$305,327; by increasing the Electric Fund by \$264,000; All From Revised Revenue and Expenditure Estimates. – Requested by the Finance Department

The City Clerk read the Ordinance by title only.

Mr. Jim O'Connor, City Manager, reported that this was the Ordinance establishing revisions to the budget, which he will be bringing to Council on a semi-annual basis. He said that this has been reviewed and recommended by the Finance Commission.

Mrs. Carroll referred to two line items under General Fund revenues, which are substantial revisions. The first line item is the Police Department fines and forfeiture amount, which is pretty much cut in half from the \$134,000 expected with \$68,000 of that being cut out. The other item was the Police miscellaneous income, which was expected to be \$22,000 and they are cutting \$16,000 out of that. She asked why those numbers were budgeted so much higher than the actual budget.

Ms. Cindy Lawson, Finance Director, explained that with the fines and forfeiture line item that the Police Department felt that they would generate more money from parking fines. She said with the other line item being Police miscellaneous this amount was put in because at the time they were looking at changing the rate schedule for wrecker services, which did not happen.

Mrs. Carroll mentioned that the former Police Chief told Council last year at the budget hearings that they were only collecting about half of the parking fines for the tickets that they actually produced. She asked if this percentage has gone up or is that what is affecting some of these numbers.

Mr. O'Connor felt that they were just over optimistic in trying to project what the new rates would actually bring in as revenue. He said that a lot of the tickets deal with handicap parking spaces and if a person doesn't have their blue handicap seal that they can come to the Police Department and show that they have one and an amendment to the ticket is made. However, he will find out what the percentage is.

Mrs. Carroll noted that the general insurance line item has almost doubled from the \$155,000 expected and now they are going up to \$294,000. She asked Ms. Lawson to explain to Council why their insurance is almost doubling.

Ms. Lawson stated that the line item is actually their liability insurance, automobile insurance, and some of the special coverages that they carry. She said across the entire City the insurance did not go up beyond what they budgeted. It is just a way that they are charging amounts to the various funds versus the way that they had originally budgeted for it. She said the allocation that they came up with for this fiscal year is the one that they will use for budgeting purposes for next year.

Mr. Winger wanted to know when the next budget amendment was going to take place.

Mr. O'Connor informed Council that another budget amendment will be done at the end of September.

Mayor Turner thanked both the City Manager and the Finance Director for bringing this item to Council in a timely manner.

Mrs. Carroll thanked the Finance Commission for working so closely with the Finance Director at their monthly meetings and reviewing these budgeted line items.

Mr. Kramer asked Mr. O'Connor if they were on track for meeting the rollback rate in this budget season. Mr. O'Connor answered yes.

Ms. Lawson reported that they received their certified taxable value, which was a little better than they expected. She said that the drop in taxable value was 2.6%.

Mayor Turner opened and closed the public hearing at 6:34 p.m., with no one wishing to be heard.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution Authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation: Construct Operations Facility, Hangars, and**

Airport Security Improvements (FDOT #420768-1-94-01). – Requested by the Airport Director

The City Clerk read the Resolution by title only.

Mr. Eric Menger, Airport Director, reported that this Supplemental Joint Participation Agreement (SJPA) amends the project grant to fund approximately 16,000 linear feet of chain link security fencing along the north part of the airfield where they have been experiencing wildlife intrusion. He said that the SJPA converts \$500,000 of the \$1,600,000 already encumbered by FDOT to be used for the new security fence. Because the project is considered by FDOT to be a security upgrade, the funds do not require a local match. Therefore, the entire fencing project will be paid for by FDOT as long as costs remain under \$500,000.

Mr. Kramer made a motion to approve the Resolution. Mr. Fletcher seconded the motion.

Mrs. Carroll asked if the security fence was replacing the one that is there now or were they just doing some upgrading to the original fence. Mr. Menger answered a little of both.

The motion passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

None

6. CITY CLERK'S MATTERS

A. Change August 14, 2012 City Council Meeting Date

The City Clerk requested from Council that the August City Council meeting be held on August 16, 2012. It was the consensus of Council to change the meeting date for the Council meeting in August, from August 14, 2012 to August 16, 2012 beginning at 9:30 a.m.

7. CITY MANAGER'S MATTERS

A) Discussion of Crestlawn Cemetery

Mr. O'Connor commented that they have had a request from a person who rents property in the City to be able to purchase cemetery property at the City rate (hardship case). Their cemetery policy states that they must be a property owner in order to get residential rates at the cemetery. So he was not able to administratively grant the City resident rates,

even though this individual has two family members buried at Crestlawn cemetery who were residents of the City. He said that when staff brought this policy before Council in 2009 they were recommending that the policy include all residents of the City and not distinguish between the property owners and tenants. The Council at that time chose to go with just property owners. He said that in this particular case that Council can make an exception to the rules and charge this individual City rates. However, if they do that he would recommend that a policy change be made and brought back to Council allowing tenants to purchase cemetery property at the City rate.

Mrs. Carroll asked Mr. Coment if they have other incidences of differential fees within the City based on if you are a resident/property owner or resident/tenant. She is concerned that there may be some legal problems. She knows that in recreation if someone says that they rent then they are charged the City resident fee. She was surprised when this came to her attention that someone had to own property in order to get a City benefit.

Mr. Wayne Coment, City Attorney, stated that recreation was a good example. He said that if you are a County resident you pay a little bit more to use recreational facilities. He remembers when this Resolution was adopted that the Council at that time decided that they wanted the taxpayers to be able to get a discount/benefit. If this Council wants to change the policy then the Ordinance would have to be amended. He reiterated that this was a policy decision and if they wanted City residents to get a discount that can be done. He said that if you are renting then you are probably paying taxes indirectly.

Mrs. Carroll asked the City Manager and the City Attorney to make this modification.

Mayor Turner agreed with the policy change. She said that tenants should be afforded the same rights as property owners.

Mr. Kramer wanted to see what the policy change could be. He said that if you do that for a tenant then you are doubling the opportunity for people to get the discount. He said that it would be the owner of the property, as well as the tenant. However, in this particular incident he would not want to separate a family just because of costs. He said maybe this could be a decision for the City Manager to make.

Mr. Coment explained that if they start doing it that way then they would need to have some type of criteria that the City Manager would have to follow in order to not just make it arbitrary on his part.

Mayor Turner made a motion that in this case they do make an exception and allow the City rate to be charged and that the City Manager and the City Attorney bring forward a suggested policy change to Council. Mrs. Carroll seconded the motion and it passed unanimously.

Mr. O'Connor reported that the unveiling of the Troy Moody Jr. Memorial will be on Tuesday, June 26th at 10:00 a.m.

Mr. Winger asked where they were on the Florida Power and Light (FP&L) negotiations.

Mr. O'Connor felt that they were making good progress. He said that the big issue is with the Orlando Utility Commission (OUC). They have shown a deep interest in helping resolve the issues. The key is they are the generator of the 149 mega watts and we must find someone to use them. He said in working with FMPA their issue is a little bit more complicated, but at the same time what it boils down to is the use of 149 mega watts. He said that the September 30th date is still the target date on whether or not they will have a path going forward. He said a lot of discussions that have taken place and the discussions have been primarily between FP&L and OUC. He felt that it looked very optimistic at this point.

Mr. Winger brought up PA Consultants and said that at some point they will have to pay them. He said that they will need to know how they value the right to transmit gas, as well as the Stanton I and Stanton II contracts. He asked Mr. O'Connor when he thought Council would see data from the consultants on this.

Mr. O'Connor said that hopefully within the next three weeks they will get some type of written report that will address at least a portion of what the charge to them has been. He noted that PA Consultants have been in consultation with OUC and also with FP&L. He said the key to success is making sure that they all are using the same factors in placing that in the formulas in determining the value of what they actually have.

Mrs. Carroll commented that Council received a letter from a member of the public in regards to the drainage ditch at MacWilliams Park. She asked Mr. O'Connor to speak on why improvements have been made to that drainage canal.

Mr. O'Connor explained that they were going to replace a pipe in that ditch and then there was some concern from the community about the pipe going in and the disruption that would occur. So staff said that they would look for options and alternatives. Staff knew that they needed to take the base of the ditch and make sure that it was free flowing. So they (the City) built a basin at the end of the ditch in order to clean and filter out any of the residue that would be coming from the ditch. Mr. O'Connor noted that the necessary permits in order to do this have been obtained.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

- 1. A request for Council to discuss directing the City Manager to develop forward revisions to the Police Pension Fund to bring down future cost to the City on future service. It is also a request to propose a time schedule for implementation in light of contracts. Such a proposal should not in any way affect anything already earned, but should change the curve of escalation to one the City can afford. As a thought, this might be a better approach than changes in rank. – Requested by Councilmember Winger**

Mr. Winger stated that he was shocked when he looked at the pension requirements for Police Officers. He said in 2012, the City contribution was budgeted at \$810,505 and the preliminary estimate for 2012/13 is \$845,000, compared to \$212,243 in 2006, \$343,454 in 2009 and \$548,910 in 2010. He tends to believe that once something is given that it shouldn't be taken away, but he still remembers the conversation from some of the Police Officers that they would help Council find funding. The impression that he received was that this funding would be found within the Police Department and they would not be reaching out to the other City Departments. He is trying to set a course of direction for the budget process rather than come to any conclusions tonight. He said that with the potential sale of the Electric Utility, the City is facing a net reduction of cash flow of approximately \$4,200,000. The City will not be able to support a continuation of the escalation of the Police Pension Contribution. The budget for the Police Department this year is seven million dollars and the pension allocation that the City pays is \$810,000. He said one of the things that this City is going to have to face with the potential sale of the electric is that things will change. He said either taxes will have to go up or services will go down. He said with the upcoming budget cycle in July the City needs to look at everything. He would like to direct the City Manager to develop forward revisions to the Police Pension Fund to bring down future cost to the City on future services. It is also a request to propose a time schedule for implementation in light of contracts. Such a proposal should not in any way affect anything already earned, but should change the curve of escalation to one the City can afford. He noted that City employees must contribute 3.25% of salary while the Police Department only contributes 3.0% of salary, which is not equitable. The City employee's payout is factored since September 30, 2010 at 1.6% and Police Officers are factored at 3.0%. The contribution to the general employee's pension fund is \$4,115,761 in 2011 for approximately 45 employees while the contribution for Police Officers was \$737,862 in 2011 supplemented by \$265,181 by the State for approximately 53 employees. He felt that they needed to change the curve on this particular development.

Mr. O'Connor felt that the next step for the Council would be to invite the Police actuarial firm to give a presentation to Council at a workshop. He has done some research into this and what they are expecting is somewhere in the neighborhood of \$265,000 a year and then when you add that to the \$845,000 contribution it is about a

million dollars. He said that there are some legal issues as to how the City would change the multiplier.

Mayor Turner wanted to see them take a look at the police pension fund, as well as the employees' pension fund. She said that neither are sustainable in the current form and they have to make revisions. However, she pointed out that the police pension fund was self sustaining for many years when the City did not make any contributions to it. She said that it was far better managed than the general employees pension fund.

Mrs. Carroll asked what happened between 2006 and 2012 to cause this increase in the City's contributions.

Mr. O'Connor said that it was because of a loss in return on investments.

Mr. O'Connor would try to schedule the police actuarial to come in and give the Council a presentation sometime during the week of budget hearings.

Mr. Kramer mentioned that he has talked to a number of the Police Officers and also the PBA and it might not be a bad idea to get some type of visioning process to see where they want their Police to be maybe in the next six months up to a year. He said that one of the things that he has learned about their Police Officers is that they are great team players. They understand that the City is hurting on the financial side. He wanted to see if there was some type of financial goal that the Police Department needs to meet and what is it.

Mr. O'Connor explained that one of the problems that they have is that their financial goal is all that they can get. He said that the question is how they structure what they are doing and that means restructuring all of the Departments and not just the Police Department. The first step, in his opinion, is that middle management needs to be reduced. He said with the Human Resource Department they are looking at trying to structure their health insurance and their insurance policies all together where they can eliminate the Risk Manager's position and possibly the Human Resources Director's position or moving someone up to that position. He hopes that in the near future that this will be a department of four people instead of six people. What they are doing in the Police Department is trying not to eliminate positions, but still reduce costs.

Mr. Kramer explained what he was asking for was a road map so that the professionals know what is coming down the road and what to expect. He said if they know what is ahead of them then the transition will not be that bad.

Mr. O'Connor explained that was the reason that they were told three months ago that this is going to happen. He said that his budget projections have not changed.

Mayor Turner asked as they are getting ready to go into budget hearings that Council come to the meetings with their organizational charts, that they look at the benchmarking

and at the other benchmark cities used in the survey and see how they are structured and compare them to our City.

Mrs. Carroll agreed with the comments made by Mayor Turner on the benchmarking. She brought it up at the last meeting and asked Council if they wanted to have a workshop to discuss the benchmarking data on the smaller departments within the City prior to the budget workshops.

Mayor Turner wanted them to address it as they go through the budget.

Mr. O'Connor mentioned that at Leisure Square they will be closing down the pool for three weeks again this year. He said that they are trying to be very open in their discussions and make things known so no one is caught by surprise.

Mr. Kramer commented that a lot of these discussions came up because of the discussion of demotions at the Police Department. He wants to see what the dollar amount is of those demotions.

Mr. O'Connor said that it was \$190,000.

Mr. Kramer stated that the Police Department has already come up with the \$190,000. Mr. O'Connor said that he has not seen it.

Mr. Winger explained that costs were cut when they didn't hire an Assistant Police Chief. However, that still leaves \$100,000 that has to come from somewhere.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Pilar Turner's Matters

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

Mayor Turner reported that she attended a Hurricane Preparedness lunch, the Elected Officials Oversight Committee meeting and an FMPA Board meeting.

Mayor Turner brought up that because the City was not a member of FMEA that they are charging her the full \$750.00 to attend the conference. She asked Council if they still wanted her to attend the conference. It was the consensus of Council that the Mayor should still plan on going to the conference.

Mayor Turner announced that budget hearings will take place the week of July 9 - 13th. She asked Mr. O'Connor when the budget books would be ready. Mr. O'Connor told her that Council should be receiving the budget books at the end of the week.

Mayor Turner announced that the next Council meeting will be on July 17th at 9:30 a.m.

B. Vice Mayor Craig Fletcher's Matters

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

Mr. Fletcher reported that he attended a Treasure Coast Regional Planning Council meeting. He said that this organization probably will not be getting any more funding from the State and will be coming to the cities to help pick up those funds.

C. Councilmember Tracy Carroll's Matters

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

Mrs. Carroll attended an MPO meeting, the opening of the Clover Leaf at Vero Beach Sports Village, and the grand opening of Einstein Bagels. She also announced that the Farmers Market is still occurring downtown on Friday afternoons and on the Oceanside on Saturday mornings. She reminded everyone that Downtown Friday will be on June 29th, and to not forget the Fourth of July celebrations. Mrs. Carroll commented that tourism was up 10% in May and also if a hurricane comes through that they should not depend on their cell phones.

D. Councilmember Jay Kramer's Matters

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

Mr. Kramer attended the ceremony at Humiston Park where State Farm Insurance presented a check to the City on behalf of the Buggy Bunch. He attended a meeting at Ft. Pierce Utility Authority concerning a fiber optic project he is working on, he was impressed with Vero Beach Sports Village, and he is spending a lot of time working with the property owner's downtown.

E. Councilmember Richard Winger's Matters

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

Mr. Winger attended the event at Humiston Park where they received a \$25,000 check from State Farm Insurance (Buggy Bunch), he attended the grand opening of Einstein Bagels, and a Beach and Shores meeting. He also reported that this weekend he will be attending the Florida League of Cities Institute for Elected Municipal Officials.

11. ADJOURNMENT

Tonight's meeting adjourned at 7:17 p.m.

/tv