

**CITY OF VERO BEACH, FLORIDA  
JUNE 5, 2012 9:30 A.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**

Vice Mayor Craig Fletcher 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**

Mr. Fletcher pulled item 9B-1) off of the agenda. He said that he probably would put it on their next Council meeting agenda for discussion.

Mrs. Tammy Vock, City Clerk, requested that an item be added on to her matters making item 6-C) "Discussion of August 21<sup>st</sup> City Council meeting."

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

**B. Proclamations**

**1. Mulligan's Beach House Bar and Grill**

Mayor Turner presented a proclamation to Mrs. Angie Schepers, Marketing Director for Mulligan's Beach House Bar and Grill.

**2. Award to be Presented to Vero Beach Police Detective Jim Kelly by Tim Zorc, Co-Founder Christian Family Builders, Inc.**

Mr. Tim Zorc, Co-founder of the Christian Family Builders, Inc., presented Vero Beach Police Detective Jim Kelly with an Award for going beyond the call of duty.

### **C. Public Comment**

Mr. Walt Geiger commented that Mr. Ray Duryea has Friday night dances at the Community Center, which are the best offered on the Treasure Coast. He then brought up the letter that the Taxpayer's Association sent to the Indian River County School Board (on file in the Clerk's office). He said that the public is not just picking on the City of Vero Beach, but also have concerns with other government agencies. He said that the School Board is way out of line with their payouts and it needs to be addressed. He brought up the City of Vero Beach's sick time and retirement and felt that what was being proposed on the agenda today was a good first step. The County changed the number of days that they allow for annual leave to 15 days, which may be something that the City should look at. Also, the City has 11 holidays, which is a lot more than other governments. He said that there are too many paid days with leave.

Mrs. Phyllis Fry, 275 Date Palm Road, brought up the Vision Plan that was passed in 2005. She said that in order to effect change in the community they have to look to the past and learn in order to plan for the future. She recalled there were 500 residents who attended meetings in the Vision Plan process when it was first being looked at. There were many long hours of research done by people who care about this community. The 2005 Vision Plan was unanimously approved by City Council. She is shocked to find out that City staff is looking at increasing the height for three story buildings in the beachside area. There is nothing wrong with the Vision Plan and it must be upheld. She expected the Plan to be enforced as it is.

Mr. Eric Olsen thanked Council for their votes to keep Bob Summer's as a Park the way it currently is and that they have provided a place where people can have an exercise area for their dogs. He said that one thing that sets this community aside from other communities is its uniqueness. He expressed that people come to the beach because of the open space. He has seen what harm can be done when large structures are allowed around the coast.

Mr. Gene Reese, 3805 Mockingbird Drive, stated that he moved to Vero Beach from Miami nine years ago. He would hate to see this community make the same mistake other communities have made (allowing large buildings on the beachside).

Mr. Mark Mucher, 617 Indian Lilac Road, stated that he was a member of the Planning and Zoning Board and that some misinformation has been flowing. He moved to Vero Beach in 1996 and at that time lived in the same condo building that Mrs. Fry lives at. What is being proposed is a reduction in the height limit that is currently allowed.

Mr. Fletcher asked Mr. Mucher to explain the 3-2-3-2.

Mr. Mucher explained that the Vision Plan allows people to only build up to two stories. They have always had height limits of 35 feet with an allowable 15 foot architect embellishment for a total maximum of 50 feet, without having to have a referendum to change the height limitation. However, the Vision Plan and the Master Plan use different height versions and they are trying to make both consistent.

Mr. Fletcher still did not think that the concept of 3-2-3-2 was explained. He said that if the Vision Plan only allows two stories on the ocean then they need to change the concept to 3-3-2-3.

Mr. Mucher mentioned that on Thursday, June 7<sup>th</sup> the Planning and Zoning Board will be holding a public hearing to discuss this.

Mrs. Carroll added that the reason this has been brought up is because the City Council asked that the Planning and Zoning Board take a look at the Vision Plan regarding this matter.

Mr. Mucher said that was correct. He said that the Vision Implementation Team dissolved in 2007. He said that the Overlay District Plan hasn't changed.

Mr. Winger asked if the Master Plan has been considered.

Mr. Mucher said that the Master Plan was done subsequent to the Vision Plan.

Mr. Winger did not think that the Council gave the Planning and Development Director directions to look at the Vision Plan in regards to the height limitations.

Mayor Turner said that this matter would be tabled and discussed later on in the meeting.

#### **D. Adoption of Consent Agenda**

- 1. Regular City Council Minutes – May 15, 2012**
- 2. Request to Sell Alcohol in Riverside Park for the Fourth of July Events**
- 3. Termination Agreement for Commercial Lease between the City of Vero Beach and Cuban Gourmet Cuisine, Inc., at the Vero Beach Municipal Airport**
- 4. URS Work Order Number 1372-12 – Rehabilitate Runway 4/22 (Design Only)**
- 5. ICMA – RC 457 Retirement Plan Administrative Services Agreement Renewal**

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

### 3. PUBLIC HEARINGS

None

### 4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) **A Resolution of the City Council of the City of Vero Beach, Florida, Amending Sections 8.01 “Eligibility and Rate of Earning,” 8.03 “Requests for Leave,” 8.04 “Annual Leave Accrual,” 9.02 “Accruing and Charging Paid Medical Leave,” and 9.05 “Medical Leave Payments,” of the City of Vero Beach Personnel Rules; Providing for an Effective Date. – Requested by City Council**

The City Clerk read the Resolution by title only.

Mayor Turner went over some of the figures that prompted her to bring this forward. She said for the last five years the City has paid out over two million dollars for these benefits. Their current liability is 2.8 million dollars, which is seventy percent of their ad valorem taxes. The City currently offers 120 days of medical leave accruing at one day per month, and what they end up doing instead of paying for 52 weeks of an employees service they are paying for those 52 weeks, plus potentially 12 days of unused sick days and whatever vacation time that an employee banks. She said that this is an unfunded liability that they need to address. She proposed that they eliminate these policies and make the adjustment to a carry-over of vacation for only five days per year with City Manager approval and no cash-out for sick days.

Mr. Winger commented that the employees of the City of Vero Beach are excellent employees. He said that what is being done here should not be a reflection of the employees. He said that when there is malfunction in a department then it is a management problem. He wanted it made clear that he supports the employees and they are fine employees. He then asked Mr. O’Connor if the employees lose any vacation or sick time that is in the bank right now.

Mr. James O’Connor, City Manager, stated no. He said that by State law what the employees have accrued is their asset. He said the reason that this does not take effect until July 15<sup>th</sup> is because they have to make sure that the employees pay checks are correct and show two different banks for vacation and sick leave. There will be one for the time that has been accrued prior to that date and then whatever is accrued after that date. If an employee dips into their bank of their previous accumulation then the money cannot accrue back into the bank. He said that it is not accurate where the term “employee abuse” has been used. He said that the employees worked within the system that was developed and designed by management and approved by City Council. He said that in this policy they are setting forth the policy of the City Council that when they negotiate Union contracts this will be one of those areas that will be discussed.

Mr. Winger referred to the employees anniversary date and asked if that was their date of being hired.

Mr. O'Connor said that was correct. He explained how this whole process will work.

Mr. Winger wanted it made clear to the employees that the attempt was to take nothing away, but to limit the City's liability. He personally spoke to some of the employees and explained to them that the City has to make changes. Again, he reiterated that he does not see that any employee is having anything taken away. He said it is regretful that cities have to change, but this is happening to cities all across the Country. He commented on how impressed he was with the quality of people that work for this City.

Mrs. Carroll understood that the benefits that the employees have earned are a bank asset and cannot be taken away. She asked if they had the capability of setting time limits for usage. She gave an example of using their banked vacation time within 36 months and then at that point the City Council will not have this huge amount hanging over their head.

Mr. O'Connor explained that as he understands it legally that could not be done. He said that they cannot change the rules that were in place at that time.

Mrs. Carroll continued by saying that the employee is then paid their vacation time based on when they use it and paid at the future value of those hours. Mr. O'Connor said that is correct.

Mr. Winger commented that the employees have earned this time and it was part of the contract when they started working for the City.

Mayor Turner stated that this is a benefit and the cost of this benefit has been hidden from the taxpayers until recently. She said now with the new accounting rules they have to state this liability within the audited reports. She expressed that the City must evaluate the financial impact of all their employee benefits and determine what they can afford.

Mr. Fletcher made a motion to adopt the Resolution as presented. Mr. Winger seconded the motion.

Mr. Mucher agreed with Mr. Winger in that this is not the employees fault, it is management's fault. He said that it is a lot easier for management to pay out this money with someone else's money then it is for them to be a little bit firmer with their employees and ask them if they were really sick or tell them they want them to take their vacation. He has never heard of anyone getting 25 days of vacation. He agrees that this system is unsustainable and needs to be changed.

The Clerk polled the Council on 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) A Resolution of the City Council of the City of Vero Beach, Florida, Abolishing the Board of Adjustment of the City of Vero Beach and Terminating the Terms of Office of Current Board Members; Providing for Transition; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by City Council**

The City Clerk read the Resolution by title only.

Mr. Fletcher made a motion to approve the Resolution. Mayor Turner 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.

- C) A Resolution of the City Council of the City of Vero Beach, Florida, implementing changes to the Organization and Membership of the Historic Preservation Commission with the Code of the City of Vero Beach as amended by Ordinance Number 2011-05; Terminating the Terms of Office of Current Commission Members; Providing for Appointment of Commission Members and their Respective Terms of Office; Providing for Transition; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by City Council**

The City Clerk read the Resolution by title only.

Mr. Winger mentioned that he took some time to interview some of the people applying to serve on the Historic Preservation Commission and they shared with him some important history in the City of Vero Beach and that it needs to be maintained.

Mr. Kramer commented that he worked with the original Historic Preservation Commission and they were working on some great programs and were being aggressive in keeping the history in Vero Beach alive.

Mr. Fletcher made a motion to approve the Resolution. Mrs. Carroll seconded the motion and it passed 4-1 with Mr. Winger voting yes, Mr. Kramer no, 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**

- 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 both items 5-A) and 5-B) by title only and they were discussed together.

Mayor Turner made a motion to approve holding the public hearing on this Resolution on June 19, 2012 and then sending it to the State of Florida Department of Economic Opportunity for their comments. Mrs. Carroll 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 Classification; 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. Tim McGarry, Planning and Development Director, explained that the City is sponsoring a text amendment to the Land Use Element of the Comprehensive Plan to include small-scale recreational activities compatible with and subordinate to an existing governmental utility in Table 1.8, Appropriate Uses of the CU, Government/Institutional/Public Use land use classification. The need for the text amendment came up as the community identified potential non-traditional options for siting recreational activities, principally to be operated by not-for-profit organizations providing recreational services to the public. He said that this was done to help the Youth Sailing Foundation in their new location. It was noted that the Youth Sailing Foundation cannot start their program until the text amendment has been approved.

Mayor Turner made a motion to approve the Ordinance on first reading and set the public hearing for June 19, 2012. 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.

**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 explained that this Ordinance will allow recreational uses compatible and in a location with a city-owned utility subject to certain provisions. The amendment is needed for the concurrent text amendment to add small scale recreational uses to the Government/Institutional/Public Use (GU) designation in the City's Comprehensive Plan. He said that there are numerous other permitted uses within the M Zoning District, which include utilities, a wide range of commercial retail and service activities, vehicular sales, service and maintenance, restaurants, educational facilities, wholesale trade, hotels,

medical uses and clubs. He did not believe that there are any M Zoning Districts located at the Airport.

Mayor Turner made a motion to approve the Ordinance on first reading and set the public hearing for June 19, 2012. 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.

**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 reported that by passing this Ordinance it will allow nursing homes in the C-1 Commercial Zoning District. He said that staff and the Planning and Zoning Board recommend approval.

Mayor Turner made a motion to approve the Ordinance and set the public hearing for June 19, 2012. 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.

**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. O'Connor mentioned that this item has been before the Finance Commission and they have taken their suggestions and put them in this proposed amendment.

Mayor Turner asked for in 2010-2011 what funds did they take from or essentially what did they overspend last year.

Ms. Cindy Lawson, Finance Director, reported that in the General Fund when they amended the year end budget they had anticipated spending close to one million dollars and when everything was balanced they only overspent by five-hundred and eighty thousand dollars. She said that with the Electric Utility Fund it was significant and to the

order of three-million dollars because of the increase in purchase power. She said that with the Water and Sewer Fund they increased their net assets by four million dollars.

Mayor Turner wanted to make a point as they get ready to go into budget hearings what the financial situation of this City is. She said that with last year's budget they overspent over three-million dollars and now they are looking at a revision (mid-year) of about half a million dollars.

Mayor Turner pointed out that she has made a public records request to the Finance Director to receive the status of their reserve balances with explanations for variances. She would like Council to have that information prior to going into their budget hearings.

Mrs. Carroll noted that the Heritage Center insurance is being shown as a line item.

Ms. Lawson explained that the Heritage Center does pay for their own insurance.

Mrs. Carroll brought up with the dune restoration they had budgeted \$11,500 and that ended up costing them over \$52,000, which was a direct result of the no name storm that occurred. She along with the City Manager, approached the County to help fund that dune restoration cost from tourism dollars and they refused the request.

Mr. O'Connor let Council know that a lot of the readjustments in the General Fund were due to the reallocation of insurance coverage.

Mr. J. Rock Tonkel commented that the public has just heard about substantial variances and they deserve to know before the budget hearings what has led to the variances and what the corrective steps are. He said that it would be helpful at a subsequent meeting to have detailed information on what contributed to these unacceptable variances in the budget.

Mrs. Carroll expressed that the new Finance Commission is looking at these things at a rapid pace and discussing the implications of the numbers as they come in.

Mr. O'Connor mentioned that the Finance Commission has had two meetings on this prior to it coming to the City Council. One of the challenges they have using the electric is projecting their energy cost, which in fact mid-year it can be adjusted up or down depending on what fuel costs are involved. He said that when you look at the Utility Department their cost of operation is a small percentage of the whole budget. However, a change in electric rates at OUC to the City of Vero Beach could have a huge variable to them real quick. He has never worked for a City that has electric utilities that could project anything that is not going to have a variable.

Mrs. Carroll commented that as she understood it what the member of the public was alluding to was how they are adjusting the year going forward based on the information that they are now receiving on a timely basis. She asked how they are modifying the

behavior as a City going forward as they see these necessary budget amendments. She asked Mr. O'Connor if he was instituting certain steps to keep the budget in-line.

Mr. O'Connor explained that he is engaging the Department Heads more directly in the budgeting process. He said that this is not only on the expenditure side, but also on the revenue side. They are also having the Finance Commission look at these things early on in the budget process.

Mrs. Carroll said that this is a vast improvement over discussions they had over a year ago with trying to get the numbers and trying to figure out what was going on.

Mr. Peter Gorry, Finance Commission Chairman, commended the entire team on this. He said that the Finance Commission meets once a month and looks at the budget trends. They do have quarterly reports that they present to the City Council. They invite all the public to come to their meetings to see what they are doing.

Mrs. Carroll thanked Mr. Gorry and the Finance Commission members for spending so much time on this.

Mayor Turner made a motion to set the public hearing for June 19, 2012. Mrs. Carroll 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.

At this time, Council took a nine-minute break and Mayor Turner resumed the meeting at 11:00 a.m.

## **6. CITY CLERK'S MATTERS**

### **A) Commission/Board Appointments**

#### **HISTORIC PRESERVATION COMMISSION**

This is a newly formed Commission and the City has received six applications from City residents who wish to serve on the Historic Preservation Commission.

Mayor Turner made a motion to appoint Laura Allen, Anna Brady, Debra Atwell, Stacy Miller, and Herbert Whittall as full members to the Historic Preservation Commission and appoint Deborah Daise as an Alternate Member. Mr. Kramer seconded the motion and it passed unanimously.

#### **COUNTY'S ADVISORY COMMITTEE OF THE MPO**

Mr. Charles Vogt has recently resigned from the County's Advisory Committee of the MPO. Mrs. Joan Edwards is willing to serve on the Committee on behalf of the City.

Mr. Fletcher made a motion to appoint Mrs. Joan Edwards to the County's Advisory Committee of the MPO. Mr. Kramer seconded the motion and it passed unanimously.

## **BOARD OF BUILDING APPEALS**

Both, Mr. John Genoni and Mr. Larry Pesin's terms on the Board of Building Appeals expire on June 15, 2012 and both members would like to be reappointed to the Board.

Mr. Fletcher made a motion to reappoint Mr. John Genoni and Mr. Larry Pesin to the Board of Building Appeals. Mrs. Carroll seconded the motion and it passed unanimously.

## **UTILITIES COMMISSION**

Mr. Daniel Fourmont is requesting that the City Council vote and approve him to serve on the Utilities Commission with the disclosure that he is a paid employee of PNC Bank and is working at the Commercial Asset Manager in the Asset Resolution Team of the financial group. Council unanimously approved this request.

### **B) Attendance at Conferences**

#### **FMEA/FMPA CONFERENCE**

The FMEA/FMPA Conference will be held this year July 24-26, 2012 at Ponte Vedra.

Mayor Turner will represent the City at this Conference noting that she serves on the FMPA Board as their Representative.

#### **FLORIDA LEAGUE OF CITIES CONFERENCE**

The Florida League of Cities Conference is August 23-25, 2012 at the Westin Diplomat Hotel in Hollywood, Florida. Mrs. Vock asked the Council to let her know if they would be attending the Conference so that she can make the necessary arrangements. At this point both Mayor Turner and Mr. Winger will be attending the Conference.

### **C) August 21<sup>st</sup> City Council Meeting**

It was the consensus of Council to hold their only meeting in August on August 14<sup>th</sup> at 9:30 a.m.

## **7. CITY MANAGER'S MATTERS**

### **A) Traffic Control – US 1 at 21<sup>st</sup> Street**

Mr. O'Connor explained that the Public Work's Department has studied the traffic control at the intersection of US 1 and 21<sup>st</sup> Street and the current traffic control is a yield

sign to regulate the merge condition. He suggested putting a stop sign in its place. The business owner who has made the complaint of how many accidents occur in this area owns the car wash in this vicinity and the way that the traffic merges on to the street that his business is located on is challenging because of the way that the intersection is designed. The Indian River County Traffic Engineer, Mr. Chris Mora and FDOT were contacted for their recommendations. They both advised against the stopped condition due to the minimal crash history. Both pointed out that changing the traffic control from a yield condition to a stop condition could increase the risk of rear end collisions.

Mr. Fletcher's opinion was to leave it the way that it is.

Mayor Turner agreed with Mr. Fletcher's comments. She said that if they put a stop sign there then they could incur a lot of rear end accidents.

Mr. O'Connor told Council that they would leave the yield sign in place. Mayor Turner asked that they keep the vegetation located on the strip cut back.

## **B) Conceptual Outline of Proposed Revised Design Review System**

Mr. McGarry reported that before Council today is a draft outline that was prepared by the Architectural Review Commission (ARC) and by staff, which is based on direction of the City Council in 2011. He explained that before they move forward in drafting regulations, they would like to know if this City Council supports this. The significant elements of the Conceptual Outline is that the ARC would have mandatory review power, they would have the ability to approve, approve with conditions, or deny applications based on codified standards. He noted that the application would still have to go through the development process. He explained that the design hearing would be quasi-judicial. He said that they would review mostly non-residential projects, large multi-family projects, conditional uses, uses in the POI district, and Overlay Districts.

Mrs. Carroll asked what about a residential property that falls within an Overlay District.

Mr. McGarry said currently the only Overlay District they are proposing is commercial type property.

Mrs. Carroll said that she saw that as a concern because the City Council stipulated the ARC's authority mainly in terms of commercial properties and multi-family properties with no impact on individual homeowners.

Mr. McGarry said one thing that has come up is the mega-residential structures of about 18,000 to 20,000 square feet and most of them are located on the Oceanside.

Mrs. Carroll said the concept of redoing the ARC was to take out the residential property owners.

Mr. McGarry asked for Council's direction on this, noting that they were not approving final regulations as it would take three to four months to complete.

Mayor Turner said that this has been a long process. But, she felt that they were closing in on it and were meeting her criteria in setting up time frames, clear criteria, taking out subjectivity, and setting up a fair open process. She felt that they were on the right track.

Mrs. Carroll asked that they remove the square footage determination of structures that the City Council had originally conceived this as to not effect private homeowners and the single-family residences that happen to be located within the Overlay Districts.

Mr. McGarry said that defeats the whole overlay purpose. He said that Osceola Park and Original Town are looking into going into a Conservation District. But, they would have to do a separate Ordinance in order to do that.

Mrs. Carroll said a single-family home within a conservation area that had modifications to their own home is individual property rights as opposed to if a business entity was purchasing the property to use the home as their place of business.

Mr. McGarry said they could deal with that issue when the time comes. He said that he would take residential out if that is the consensus of the Council.

On a new subject, Mayor Turner asked Mr. O'Connor to report on a recent conference that he attended.

Mr. O'Connor commented that at the Conference he learned that virtually every City in the State of Florida is going through the same issues that the City of Vero Beach is going through. There were some very good presentations on pension plans and how to try to modify going from a defined benefit to a defined contribution. He reported that the expected ruling on the Health Care Law is to occur on June 28<sup>th</sup>. He noted that some of the rules affect the City of Vero Beach directly. If you are an employer with over 50 employees' fines could be levied if certain standards are not followed. This calls the question of trying to remain self-insured like the City now is, as opposed to going to an insurance company and by contractual agreement placing the burden on that provider. Another issue is that a lot of cities have gone to higher deductions to reduce their premiums. Under Federal Guidelines that are currently being imposed, if it is determined to be an unreasonable deduction then they (entity) are subject to a fine because what they have done is priced the health insurance out of the range of the employees. He noted that this was a very complex process. Another thing on the Supreme Court ruling is that there is no severability clause in the healthcare. He felt that this does help the City in trying to define their health insurance. One other thing that he learned was that having the agent of record concept, which cities seem to be moving away from because it is one in which they provide a value in helping select insurance coverage. He reported that the City is pursuing the effort of looking into the Florida League of Cities to assist in healthcare coverage because they would not have to pay an agent of record. He noted that he did take the opportunity while at the conference to speak with some people about the

possibility of trying to find someone to fill the Human Resource Director's position. He noted that negotiations were going to be very challenging and they may need to hire an attorney as opposed to replacing the Human Resource Director position to handle the negotiations.

Mrs. Carroll said as they go forward with negotiations with the various Unions and the City considers the benefits they can no longer afford, it is important that they have proper representation to represent the City.

Mr. O'Connor reported that the City is now in the middle of some of the negotiations. He noted that he was trying to find the right person to hire. He said that currently everything is on the table and the Council has not signed off on the contract.

Mr. Winger asked Mr. O'Connor to bring Council up to date on the discussions with the County relative to water and sewer.

Mr. O'Connor met with the County and they discussed some of the challenges that would interface in serving customers outside the City. Using South Beach as an example, the trunk lines are owned by the City and therefore there is a transmission issue. He said that there would have to be a capital investment, such as putting lines under the river in order to get to South Beach verses buying bulk water or services from the City. If they look at other areas outside the City there is not a master meter concept because there are so many service lines that come from various locations in the City. That is going to make it more difficult in doing a customer transfer if that is what they choose to do. The question comes up as to who does the customer want to read their meter, which may be an issue. These are the type of discussions that will continue.

Mr. Winger asked did the rate issue for South Beach come up.

Mr. O'Connor said that they did not negotiate any rates. They made it clear that either the City or the County rate structure would be available to customers in bulk, but that was not part of their discussion.

Mr. Winger said that the service agreement is rather fixed.

Mr. O'Connor said that is correct. He said that they really have two documents that they are working with.

Mr. Winger asked is the ball now in the County's court and has the City shown good faith and are willing to talk.

Mr. O'Connor said that both sides have shown good faith. He said that the County is going to put together some discussion points.

Mr. Winger said there are some voids in employment of the City, such as Mr. John Lee's position (Retired Customer Service Manager). He asked Mr. O'Connor to discuss them.

Mr. O'Connor said that they were doing an analysis on the open positions. He noted that it was critical to have someone in the Customer Service Manager position. They have interviewed two people for the Power Plant Director position and are currently talking with others. He said that this position was more difficult to fill because there is a question to whether it is going to be permanent or not. He reported that in the upcoming budget Council will probably see a reduction of about 18 employees. He noted that staff knows they are going to have to start doing more with less.

Mr. Winger asked who the Billing Department reports to.

Mr. O'Connor answered the Finance Director.

At this time, Mr. Winger felt that it was appropriate for Mr. O'Connor to give Council an update on the potential sale of the electric utility.

Mr. O'Connor felt that they were making good progress. He said that there were two major points that he discussed with the Finance Commission and the Utilities Commission, which were the FMPA and OUC contracts. He said that OUC is an important part because that is where the generation comes from and they are the responsible party to be able to sell it. He said that FMPA is the financing area of the equation. In both cases, FMPA and OUC have said that they need to be made whole and kept in balance. He felt that they were making good headway. He reported that OUC has been very willing to give information and the City has given out a lot of information. He felt that they were making progress and are further ahead today than they were three months ago.

Mr. Winger asked is there any certainty at this point.

Mr. O'Connor said there is no certainty. He was very comfortable with the time line of September.

Mrs. Carroll said Council discussed at their last meeting the potential tax benefits to new businesses in the Economic Development Zone. She asked is that being worked on.

Mr. O'Connor said that Mr. McGarry and Mr. Eric Menger, Airport Director, have been working on this.

Mrs. Carroll noted that Council received more information on benchmarking. She asked would they be holding a Special Call meeting to discuss this prior to the budget hearings.

Mr. O'Connor said that they could if that is the will of the Council.

Mrs. Carroll asked that each Councilmember look over the benchmarking data to see if they have significant questions.

Mr. O'Connor asked that Council give the questions to the City Clerk and he will try to respond. If there are multiple questions then they could hold a meeting to go over them.

Mayor Turner said there were still a couple departments that Council has not received benchmarking data from.

Mrs. Carroll asked Mr. O'Connor if he has been utilizing the data in moving forward with what they would look at in employees for next year.

Mr. O'Connor answered yes. He explained that they are looking primarily at that in terms of positions being filled and services being rendered.

Mayor Turner said that she received copies of the budgets of each of the benchmark cities. She said that it was interesting to see how each city prepared their budgets. She said the information is available to the Councilmembers if they would like to review it.

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

None

## **9. CITY COUNCIL MATTERS**

### **A. Old Business**

### **B. New Business**

#### **1. Stand-By plan for electric utilities – Requested by Vice Mayor Fletcher**

Mr. Fletcher pulled this item off of the agenda.

#### **2. A Request to replace the Power Plant Manager – Requested by Councilmember Winger**

Mr. Winger commented that he spent a fair amount of time with Mr. Jim Stevens before he retired. He recently visited OUC with Mr. Randall McCamish. He knows that there are three candidates for the position of the Utilities Director that will be coming forward. He is concerned that they don't have a Utility Director to run the Utilities Department. He felt that the Utility Director's position needs to be filled and it needs to be run as a business. He expressed that this position should be filled immediately. He said whether the City sells the utilities to FP&L or if they go to Plan B, which would be a partial sale or Plan C, which would be having a Utility Authority, a Utilities Director needs to be in place. He said having spent a considerable amount of time looking at various records it is imperative that they have more management then what they have now. He expressed that he put this item on the agenda to add to the discussion on the item that Mr. Fletcher pulled from today's agenda.

Mr. Kramer completely agreed with Mr. Winger's comments. He said that they are going to need someone who knows about the Power Plant if this transition is going to happen.

Mr. O'Connor commented that he was in the process of compiling a list of people. He noted that it has only been three weeks since Mr. Stevens retired and when he retired he only gave a one-week notice. He agreed that they needed to hire someone with Power Plant experience.

Mrs. Carroll expressed that it was not Council's role to mandate what the City Manager does concerning employees.

Mr. Kramer disagreed. He said that it is their responsibility to get the best person hired for that position and not a person in there from FP&L.

### **3. Discussion of the Ordinance on the Overlay District – Requested by Councilmember Winger**

Mr. Winger said that the Vision Plan is the community's sense of itself. He said that he liked that definition, which was given to him a few days ago. He said that the Vision Plan was nearly a two year effort involving several thousands hundreds of dollars. He then read a prepared speech (please see attached).

Mayor Turner explained that the word "story" was not a technical term, nor was it defined in the matter of feet. She felt that the Planning and Zoning Board was trying to clarify the specification of it.

Mr. Winger said what he was trying to say was that the City doesn't need the Planning and Zoning Board to revisit the wording of the height limitation. The sense is that the citizens do not want to change it. He suggested to Council that they allow public comment on whether he is right or wrong.

Mayor Turner said this is an issue that is before the Planning and Zoning Board. There is not an Ordinance before this Council for discussion. The Planning and Zoning Board will continue to hold public hearings to address this issue. The City Council has asked the Planning and Zoning Board to look at this as part of implementing the Vision Plan. In order for the Vision Plan to become affective they have to create these Ordinances, which is what the Planning and Zoning Board is trying to do.

Mr. Winger made a motion to direct the Planning and Zoning Board to leave this issue of revisiting the height of buildings out of their consideration. Mr. Kramer seconded the motion.

Mrs. Carroll said that the City Council asked the Planning and Zoning Board to implement the Vision Plan, they are going through the process, they are discussing it, and they will bring forward decisions and at that point Council will vote for or against various

aspects. She felt that it was premature at this point when the Planning and Zoning Board has just begun looking at various things to mandate to them.

Mr. Mark Mucher, Planning and Zoning Board member, said that this is the end of the process. He hoped that after Thursday's meeting the Planning and Zoning Board would be done with it and it will come before the City Council. If Mr. Winger wants nothing changed as far as the height, then they would continue to have 3-3-3-3 and higher foot limits than what are currently in the Overlay Plan. He thought that what Mr. Winger was talking about with regards to no change was the 2-2-3-2 that is in the Vision Plan or the 3-2-3-2 that is in the Master Plan. Mr. Mucher said that none of them makes sense to either the Planning and Development Department or to the majority of the Planning and Zoning Board.

Mr. Fletcher said the Vision Plan does have 3-2-3-2 and he found it difficult to cross grain when there was so much work done in coming up with the height limit.

Mrs. Turner said that they do seem to have a conflict between the Vision Plan and the Master Plan and that is why this needs to be discussed.

Mr. Fletcher said that he was not stating that this should not be discussed. His point was that he was having trouble with both Plans. He felt that they should allow the Planning and Zoning Board to come up with their own decision of what that should be. He said that he was leaning towards the 3-2-3-2 that comes from the Vision Plan. He was hesitant to tell the Planning and Zoning Board what to do. He said that he does not want 3-3-3-3. He was leaning towards letting the Planning and Zoning Board complete their review of this.

Mr. Winger modified his motion that as the Planning and Zoning Board moves forward, whatever they come up with should be consistent with the Vision Plan and the Master Plan. Mr. Kramer seconded the modified motion.

Ms. Polly Weil, former Vision Implementation Team member, said that they spent hours with the Planning and Development Department and a paid consultant in trying to keep the height the way that it is. She said that there were at least two property owners on Ocean Drive who served on the Vision Implementation Team and what they decided was unanimously accepted. Now people are trying to negotiate what they said. Their intent was not to go any higher than what is presently on Downtown Ocean Drive. The whole Vision Plan was a compromise and if Council takes the Vision Plan and treats it like a buffet then they have lost its continuity. She said that it was unanimously voted on and it should not be wiggled around.

Mr. Robert Hall, 2838 Ocean Drive, said that the Vision Plan seemed to represent the will of the people. He recommended that the City Council reject any proposals that are significantly different from the Vision Plan and to restrict the buildings to two stories or less.

Mr. Harry Blynn, 1971 Club Drive, said that he was not part of the vision planning, but he was around when it was being done and the people who worked on the Vision Plan worked very hard. He felt that they should implement the Vision Plan as it is and not begin to say what the Vision Plan really means. He understood, in looking at past minutes, that this City Council did not officially charge the Planning and Zoning Board with opening up the discussion of “stories” or “heights.” He was mystified as to how the Planning and Zoning Board got started on this and wondered who was really in charge.

Mr. Victor Demadio, 29 Sailfish Drive, reported that he attended the last Planning and Zoning Board meeting, and has been following this for some time with a group of people. He said that up until last December they were following the Master Plan and the documentation that was created to support it. He said that when changes were made to the agreement, it would be appropriately inserted and ruled out with the words that were changed. At the April Planning and Zoning meeting that document had disappeared and the document the Planning and Zoning Board is working with now is an entirely new document with no reference to the old documents supporting the Vision Plan. He said that document had the true feeling of Vero Beach. He felt that it was appropriate that the Vision Plan and the Master Plan are preserved for the beach district.

Mr. McGarry explained that the Planning and Zoning Board made a conscious decision as to why they should go with 3-3-3-3. He said that City staff works with the Planning and Zoning Board and he believed that there was some consensus moving forward. To accuse staff of directing this was not fair. He said that people seem to forget that under the current Ordinance people can go up 50 feet. They could put in three or four stories. This Ordinance is trying to promote mixed use and encourage tourism. People need to attend the Planning and Zoning Board meeting and voice their opinion.

Mayor Turner said that when the Vision Plan and the Master Plan was created there was never a change in the Ordinance. The Ordinance still allows for a 50 foot building in this area and that is what they are trying to change.

Mr. Winger felt that the Council faces enough problems that they don't need to have another one. He said that they don't want change, they want to stay Vero Beach. He was willing to remove his motion if Mr. Fletcher wanted to replace it as long as it does not include three stories. If not then he would call the question.

Mrs. Carroll said it was stated that they, as Council, appointed one person to the Planning and Zoning Board and insinuated that perhaps they knew how they were going to vote. She wanted it on the record that since the day she named someone to serve on the Planning and Zoning Board she has never attempted to influence the vote on any issue.

Mr. McGarry did not mean to make that insinuation.

Mr. Fletcher said under the Vision Plan, they have 3-2-3-2 that restricts the building height. He asked is there a concern with the Bert Harris Act.

Mr. Coment answered yes. He explained that the Bert Harris Act is when legislation or government action is taken that affects property rights.

Mrs. Carroll said then theoretically, if someone purchased property on Ocean Drive with the impression that they could build to 50 feet and they come in and tell them it can only be two stories at 35 feet then they have limited the property owner's capability of utilizing the property that they paid for.

Mr. Coment said that there are hoops that they could jump through. But, there is more than just an application in the Ordinance. It is going to have to specifically affect their property and they would have to show that.

Mr. McGarry said depending on how they go with the Ordinance they would have to make certain adjustments to protect the City from the Bert Harris Act.

Ms. Polly Weil felt that they all would agree that the Spires was a mistake a long time ago. The community wanted to do something about it and put in the original height restrictions.

Mayor Turner said if anything they were trying to lower the height on Ocean Drive.

Mr. Fletcher had a problem telling the Planning and Zoning Board to do anything. He said that Mr. Mucher called him and asked him what he thought about this and he made it a point to tell Mr. Mucher that he refused to tell him what to do. He was not going to guide him. He said that when it comes before the Council then he would make the decision on whether Mr. Mucher was right or wrong and he refused to tell the Planning and Zoning Board what to do. He asked to call the question.

Mr. Winger restated his motion.

Mr. Victor Demadio said that the Bert Harris Act has no bearing on this. The size of the building and the value of the real estate is established by the Floor Area Ratio (FAR). If they go three stories, they cannot add a single square foot. It is the same square footage as a two story building. He said that restraining the building to two stories effects only the aesthetics.

The motion failed 3-2 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll no, Mr. Fletcher no, and Mayor Turner no.

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

- A. Mayor Pilar Turner's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

Mayor Turner reported that she attended the Treasure Coast Regional League of Cities (TCRLC) meeting and they decided to fund a long term grant for Public Administration at Indian River State College. She reported that the TCRLC will be hosting a breakfast at the upcoming Florida League of Cities (FLOC) Conference. She reported that she attended the Florida Department of Transportation (FDOT) meeting where they discussed their role in Port Ft. Pierce in enhancing development opportunities in Florida sea ports and on June 14<sup>th</sup> she will be attending the FMPA Board meeting. She thanked Mr. O'Connor and staff for their assistance in the beautiful Memorial Day Ceremony that was held at Veterans Memorial Island Sanctuary. She felt that the Ceremony was a great success with record attendance. She reported that the Buggy Bunch secured a grant from State Farm to put up shade covers and on June 7<sup>th</sup> they will be receiving a check at Humiston Park. She reported that on June 9<sup>th</sup> they will be packaging up meals for the ride to beat hunger at the Gifford Youth Center. She said that hurricane season is upon us and reported that the City provides a video online to assist people in hurricane preparations.

**B. Vice Mayor Craig Fletcher's Matters**

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

No report given.

**C. Councilmember Tracy Carroll's Matters**

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

Mrs. Carroll reported that over 50% of tourism tax that is raised in the County is coming from hotels within the City. In February she and Mr. O'Connor approached the Tourism Development Council to request funds for the reconstruction of sand on the Conn Beach Boardwalk area based on the storm that washed away a substantial amount of sand. She said that they do have stipulated funding in reserve accounts for beach reconstruction of an emergency nature, but they were opposed by the County Administrator who was able to influence the vote and the City was denied discussion of funding. Last month the Tourist Development Council agreed to utilize funds for utilization of tourism related opportunities throughout the community, such as Vero Heritage, the Treasure Coast Sport's Commission, the Historical Society, and the Cultural Council. She said that the Tourist Development Council receives funding applications from these entities and then determines how funding will be distributed. However, the County Commission had a request from the County Administrator that the funding be cut based on, what she felt, belief that the County can override the decision of the Tourist Development Council in order to alleviate their own control over that funding. She said that since over 50% of that funding is derived from businesses in the City of Vero Beach, the City should have significant decision making on where these funds should go. She asked Mr. Coment what ramifications they would have in the City considering the decision a number of

years ago to allow the County to take funds that come from the City and make decisions without the City's input.

Mr. Coment said it is statutorily driven and unfortunately the County has most of that authority. He said that this is a case where there was a referendum authorizing the taxation and the Statute puts the money in the County's hands. He said that he would look into this further to see if there is some remedy.

Mr. Kramer asked can the City remove themselves from the current program.

Mr. Coment did not think so.

Mrs. Carroll said that she would appreciate Mr. O'Connor and Mr. Coment working together on this.

Mrs. Carroll said that she received communication regarding the Downtown parking situation. She said that there are almost 200 business owners in the City and there have been discussions with the Courthouse regarding parking within our community. City staff produced some parking maps and various locations that parking can be utilized for a longer period of time than the three-hour stipulation along 14<sup>th</sup> Avenue. She hoped that they could get this documentation in the local newspaper so the public will know where they are located.

Mrs. Carroll reported that the Vero Beach Lifeguard Association produced an April 2012 Beach Report. She was happy to see this documentation in terms of the importance of Lifeguards. She reported that the businesses within our community have the capability of being listed on the Visit Florida.com website. She reported that the Police and Fire Games would take place in June throughout the sporting facilities throughout the Treasure Coast. She reported that Mrs. Amy Selby was presented with the Indian River Hospitality Award.

**D. Councilmember Jay Kramer's Matters**

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

No report given.

**E. Councilmember Richard Winger's Matters**

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

Mr. Winger reported that he attended a DARE Graduation, a Beach and Shores Committee meeting, he was at Waldo's on May 22<sup>nd</sup> when the Reverend arrived, the

Memorial Day Ceremony on Veterans Memorial Island Sanctuary, and he attended an OUC meeting on May 31<sup>st</sup>.

**11. ADJOURNMENT**

Today's meeting adjourned at 12:33 p.m.

/tv