

**CITY OF VERO BEACH, FLORIDA  
OCTOBER 15, 2013 6:00 P.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Father Richard Murphy/Holy Cross Catholic Church followed by the Pledge of Allegiance to the flag.

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Craig Fletcher, present; Vice Mayor Tracy Carroll, present; Councilmember Pilar Turner, present; Councilmember Jay Kramer, present; and Councilmember Richard Winger, 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. Mrs. Carroll seconded the motion and it passed unanimously.

**B. Proclamations**

- 1. National and Arts Humanities Month – October 2013**
- 2. Code Enforcement Officers' Appreciation Month – October 2013**

Mayor Fletcher read and presented the Proclamations.

**3. Citizen Recognition Award – To be presented by Chief Curry**

Chief Curry presented an award to Mr. Rick Reynolds for assisting the Police Department in apprehending a bank robber.

**4. Plaque to be presented to Councilmember Turner for serving as a member of the Board of Directors of the Florida League of Cities, Inc.**

Mayor Fletcher presented a plaque to Councilmember Turner for serving as a member on the Board of Directors for the Florida League of Cities.

**C. Public Comment**

- 1. Mrs. Sue Dinunno to discuss an upcoming fundraiser for the Recreation Department.**

Mrs. Sue Dinunno invited everyone to Art Night at the Springhill Marriott Suites on October 17<sup>th</sup>. She said that the proceeds made will be donated to the Vero Beach Recreation Department. She also reported on the Holiday Rec Party scheduled for December 6<sup>th</sup>. She said the Vero Beach Art Club will be donating paintings that will be raffled off at the Holiday Event.

Mr. Rob Slezak, Recreation Director, thanked Mrs. Dinunno and everyone who is pitching in to help the Recreation Department. He then reminded everyone to come to the annual Halloween costume parade.

Mr. Eric Toomsoo, President of the Vero Beach Lifeguard Association, reported that the Lifeguard Association conducted a survey (on file in the City Clerk's office) that shows what the lifeguards need in order to perform their job more effectively. He asked Council that when doing their budget in 2015 maybe they could consider some of these items.

Mrs. Carroll asked him about one of the items on the list. She asked what is the need for a medical back pack.

Mr. Toomsoo explained that at the present time they have medical side packs, which are heavy and the lifeguards would like to have the backpacks to carry instead. He said this is one of those items that would make the lifeguard jobs easier.

Mrs. Carroll noted that the lifeguards would like to have another lifeguard tower at Humiston Beach and then one at Sexton Plaza. Mr. Toomsoo said that the Vero Beach Lifeguard Association is pretty confident that they can get the materials donated for the stations and the lifeguards will put in the man hours to construct the stations.

Mrs. Carroll had some concerns with Sexton Plaza being in the middle of their hotel corridor and not being guarded. She said if the towers go up then the City will need to fund a person to sit in them.

Mr. Herb Whittall stated that Vero Isles was looking forward to having the 5k Holiday race come through their subdivision on December 6<sup>th</sup>. He then brought up the contract that they have for the person who mows some of the property in the City of Vero Beach and that the contractor is located in Orlando. He realizes that in government when you put out an RFP they usually go with the lowest bidder and sometimes you get what you pay for. Mr. Whittall was in favor of the fertilizer Ordinance and would like to see it passed. He still has a problem with some of their Commissions making decisions and the final decision not coming back to the City Council. He brought up that there is an election coming up and the selling of the utilities is the big issue. He felt that most people were in favor of selling the utilities as long as it is done correctly. He recalled that years ago he said that the problem in selling the utilities would be with FMPA. He said someone on the Council needs to go and talk to FMPA.

Mr. Brian Heady stated that he resides in Vero Beach, but he does not have a post office box. He mentioned that Mr. Whittall has said that everyone is in favor of selling the

utilities. He didn't know if that was true or not, but he did feel that everyone would like to see lower utility rates. He announced that all of the candidates running for City Council received a pledge form from an organization. Mr. Winger decided not to sign the pledge form, but sent out a public announcement. He asked Mrs. Carroll if she signed the pledge form. Mrs. Carroll did not answer the question. Mr. Heady talked about the City contract with FPL. He said that they know what the dollar amount and final terms are so why don't they turn the switch on for FPL on November 1<sup>st</sup>. He asked Council to make a motion to this effect. He understands that all the terms cannot be met by then. However, the City could give FPL the keys on November 1st and then everyone on City utilities would get lower rates and all it would take is a motion from the Council. By doing this they also will find out if Council really wants to sell the Power Plant. He asked if anyone knew a reason why we cannot do this. He then asked Mrs. Carroll if she has a copy of the pledge form that she signed.

Mrs. Carroll made it clear that for the last four (4) years she has supported the sale of the Vero Beach electrical system throughout the entire time period and she has voted over and over to go forward with selling the electric.

Mr. Heady commented that the pledge form is a public document and he would like to see a copy of the one that Mrs. Carroll signed. He told Mrs. Carroll that she makes statements, but she does not follow through with the statements that she makes.

Mr. Kramer questioned if such a document is subject to the public records law.

Mr. Coment stated that if it involves City business then it is a public record.

Mr. Heady stated that he asked Mrs. Vock for a copy of the pledge form that Mrs. Carroll signed and she said that she did not have a copy of it. He said that the only way to find out if the document exists is to ask Mrs. Carroll for a copy of it. He asked Mrs. Carroll if she has a copy of the signed document. He said a simple yes or no would be fine. Mrs. Carroll chose not to answer the question.

Mr. Coment explained that the custodian of the record is responsible for producing the record if it exists.

Ms. Amelia Graves, 1836 21<sup>st</sup> Avenue, was pleased to see a lot of students attending the City Council meeting tonight. She talked about the fertilizer Ordinance and noted that the bottom line is to craft an Ordinance that is reasonable, strict, enforceable, and that the residents are happy with.

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

- 1. Regular City Council Minutes – October 1, 2013**
- 2. Annual Service Contract/Agreement with Efacec**
- 3. Bid No. 140-13/PW – Resurfacing and Repair of Tennis Courts**

4. **Commercial Lease Agreement between the City of Vero Beach and Flightline Group, Inc., d/b/a Southeast Piper**
5. **Treasure Coast Regional League of Cities**
6. **Settlement Agreement for the Estate of Mendy**
7. **License Agreement for use of City property – Indian River Rowing Club, Inc.**
8. **New Commercial Lease Agreement between the City of Vero Beach and Davis Development, Inc.**

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

### 3. PUBLIC HEARINGS

- A) **An Ordinance of the City of Vero Beach, Florida, amending the Code of the City of Vero Beach, Chapter 62, Nonresidential Districts, Article III, by creating Section 62.36 to provide for planned development as a Conditional Use in the C1-A and C-1 Commercial Zoning Districts; Creating Article XIV, Planned Developments; Providing for Minimum Eligibility Requirements; Providing for Conditional Use Requirements and Minimum Performance and Development Standards; Providing for Waivers from Development Standards that demonstrate and promote a public benefit; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Fletcher read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, reported that this was the second and final public hearing for this Ordinance. The Ordinance provides waivers to developers, subject to the Planning and Zoning Board's approval. He noted that there was a correction made on page 4. He explained in Section 62.603 (2), the Section referred to should be Section 62.606 (correction has been made in the original Ordinance).

Mayor Fletcher opened the public hearing at 6:44 p.m.

Mr. Herb Whittall did not think that approval of waivers should be given by the Planning and Zoning Board without having to come back to the City Council for final approval.

Mayor Fletcher closed the public hearing at 6:45 p.m., with no one else wishing to be heard.

Mrs. Carroll asked Mr. McGarry if he could delineate what type of modification would be allowed from a waiver from the Planning and Zoning Board as opposed to coming back to the City Council.

Mr. McGarry stated it is not like the Planning and Zoning Board does not have the power already. However, Council can make any changes that they would like in order to have the final say, but it might lengthen the process. He also reminded Council that any appeals of the Planning and Zoning Board's decisions come to the City Council.

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

#### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

None

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

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 60, Appendix, Definitions, of the Code of The City of Vero Beach by creating a definition for Community Garden; Amending Chapter 64, Article I, Development Review, by creating Section 64.14, "Community Gardens;" providing Procedures and Standards for Regulating Community Gardens; amending Pertinent Sections of Chapter 61, Residential Zoning Districts, Articles I, III, IV, and V, to Providing for Community Gardens as Principal Use in Residential Zoning Districts; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Fletcher read the Ordinance by title only.

Mr. McGarry reported that adoption of this Ordinance establishes "Community Gardens" as an allowed principal use in all residential zoning districts, except for R-1AAA. The preparation of this Ordinance was the result of a code enforcement action against some vacant property where community gardening was being undertaken. In response to a request from Mr. Will Tremmel, whose family owns the property subject of the enforcement action, requested staff to prepare an Ordinance. In drafting the Ordinance, staff relied on a draft provided by Mr. Tremmel and other community garden Ordinances adopted by other municipalities. The Planning and Zoning Board held a workshop to review and provide input on the initial draft Ordinance. The draft Ordinance was revised by staff based on input from the Board and submitted for the Board's consideration at a public hearing, where it was unanimously approved to send the Ordinance to Council for final approval. The Ordinance does require that two public hearings be held.

Mrs. Carroll asked if the Tremmel family will be required to put in a driveway. Mr. McGarry answered no. Mrs. Carroll asked how vehicles will park on the site. Mr. McGarry said that the Tremmels' will be granted approval for vehicles to park on the site.

Mrs. Turner thanked everyone who worked on drafting this Ordinance. She said that having a community garden in this community is a wonderful gift.

Mayor Fletcher opened and closed the public hearing at 6:51 p.m., with no one wishing to be heard.

Mr. Winger made a motion to approve the Ordinance and set the public hearings for November 5, 2013 and November 19, 2013. Mrs. Carroll seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Turner yes, Mrs. Carroll yes, and Mayor Fletcher yes.

**B) An Ordinance of the City of Vero Beach, Florida, relating to the Sale, Merchandising, and Use of Electronic Cigarettes and Liquid Nicotine; Creating a new Chapter 73 in the Code of the City of Vero Beach to be entitled "Tobacco Products;" Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Council**

Mayor Fletcher read the Ordinance by title only.

Mr. Coment reported that Council asked that this Ordinance be brought before them. He based the Ordinance that they have in front of them from one that was adopted in Clay County. He said that the FDA is looking at regulations and also in the Florida Legislature a Bill has been filed that would outlaw the sale of e-cigarettes to anyone under the age of 18. He said that Bill probably will not be introduced until next year. So sooner or later by passing this Ordinance the City may get preempted.

Mr. Winger commented that there are two issues in this matter and those issues can be divided. The first issue is to make it illegal to sell e-cigarettes to people under the age of 18 and putting the e-cigarettes behind the counter. The second issue has to do with use of these devices by adults or people over 18. He feels that the two issues should be divided and the City should only deal with the children. He felt that something needed to be done now, but only with the children's portion of this Ordinance.

Mrs. Carroll asked in the Ordinance is the City placing any regulations on adult usage of these products.

Mr. Coment said yes that it forbids the use any place where smoking is prohibited. He said that the law will not allow them to outlaw smoking, but they can enforce what the Clean Air Act states. This Ordinance says that wherever smoking is prohibited according to the Clean Air Act then the e-cigarettes would not be allowed to be used either. Also, e-cigarettes will not be allowed to be put in cigarette machines.

Mr. Kramer agreed with Mr. Winger in separating the two issues. He agreed that they need to make sure that children cannot get access to e-cigarettes until they can get clear direction from the State as to how they are going to handle this issue. As far as use of

these cigarettes where smoking is prohibited he has never noticed any problems from people using e-cigarettes. He reiterated to leave the second part out of the Ordinance. He just wanted to see children protected from being able to obtain e-cigarettes.

Mr. Winger made a motion to move forward with the portions having to do with children, but strip out the portions having to do with adults. Mr. Kramer seconded the motion. The public hearing will be set for November 5, 2013.

Mr. Coment said for clarification strip out the prohibition on use, but leave in the merchandising and sale of e-cigarettes. He was told by Council that was correct.

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

Julian (last name not given), of Lakewood Park, was concerned about the Ordinance. He wanted to go over some issues so that Council was clear on both sides of the issue. He said according to this Ordinance there are a lot of holes in the opening statements. He said by allowing e-cigarettes it helps a smoker quit the habit. An e-cigarette is a water vapor that has nicotine in it. He provided Council with some literature and said that the literature should explain what is in the liquid approved for consumption. No one has ever overdosed on straight nicotine. He has no problem with the age of 18 rules, but feels that purchase of e-cigarettes at a bar should be allowed. He expressed that this product is almost a miracle for a smoker. He also did not feel that FDA has done any studies on this.

Mr. Kramer explained they were not banning e-cigarettes. The City is just making sure that they are not available to children under the age of 18.

Julian stated that this product is not geared for kids.

Mr. Winger explained there is a growing concern that more and more children are using these products. He felt Council had addressed Julian's concerns.

Mr. Kramer added that by passing this Ordinance they will have taken the e-cigarettes and put them behind the counter so anyone purchasing an e-cigarette will have to show identification that they are not under the age of 18.

Mrs. Carroll noted that Council received about 50 letters on e-cigarettes and most of the people indicated that they were now addicted to e-cigarettes. She wanted to point out that they received letters from both sides of the issue.

**C) 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, 2012 and ending September 30, 2013, by Decreasing the General Fund by \$30,518; by Increasing the Street Paving and Drainage Fund by \$243,195; by Decreasing the Infrastructure and Real Estate**

**Improvement Fund by \$10,000; by Decreasing the Electric Fund by \$1,693,953; by Decreasing the Electric R&R Fund by \$2,360,430; by Decreasing the Water and Sewer Fund by \$459,566; by Increasing the Water and Sewer R&R Fund by \$4,185,200; by Decreasing the Airport Fund by \$22,589; by Increasing the Airport Construction Fund by \$76,203; by Increasing the Marina Fund by \$107,374; by Increasing the Solid Waste Fund by \$20,749; by Increasing the Recreation Fund by \$36,379; by Increasing the Recreation Construction Fund by \$17,131; by increasing the Risk Management Fund by \$40,318; by Increasing the Confiscated Property Fund by \$17,600; by Increasing the Law Enforcement Education Fund by \$5,000; by Decreasing the Crestlawn Cemetery Trust Fund by \$1,633; All from Revised Revenue, Expenditure and Transfer Estimates. – Requested by the Finance Director**

Mayor Fletcher read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, made a correction to the title of the Ordinance. She said that it should say Increasing the Crestlawn Cemetery Trust Fund, instead of Decreasing (change made to the original Ordinance). She said what they have in front of them is the first and final amendment to the budget for fiscal year 12-13. She said that they do this every year in conjunction with preparation of their annual audited financial reports (CAFR), which will be completed in March. The draft of this amendment was reviewed and approved by the Finance Commission in August and there have been some small changes made to it in the General Fund particularly. She said in the General Fund, she is projecting their expenditures will come in at about \$30,000 less than the original adopted budget from last year. She felt this was a definite improvement as to what they have seen in the past. She has worked on internal budgetary compliance, line item transfers, and a lot of scrutiny by the Department Heads. There have also been quarterly variance analysis and reviews of where the City stood each quarter. Also, over the last couple of years that she has begun to budget in a more realistic and conservative way when it comes to revenues and expenditures. The Electric Fund was updated to reflect the most recent rate sufficiency analysis that was done. The Water & Sewer Utility is still expected to have \$1.2 million dollar cash carryover despite that they had a wetter year than projected. She is planning to do a first quarter budget amendment for fiscal year 13-14 for the capital projects.

Mr. Winger asked where they were, generally speaking, with the bad debt expense from last year for the utilities.

Ms. Lawson explained that they have just about finished where they have had to go back seven years when they experience the hurricanes. She said a lot of things that made last year's bad expense booking a little different was that she discovered two years ago that up to this point in time all of the allowance for the uncollectables had been against the Electric Fund despite the fact that a good portion of it belonged to both Water & Sewer and Solid Waste. She said rather than hitting those two funds with a giant number and take it all away from the Electric Fund she did it over three fiscal years.

Mayor Fletcher opened and closed the public hearing at 7:14 p.m., with no one wishing to be heard.

Mr. O'Connor added that he owes a debt of gratitude to the Department Directors who have worked on their budgets to pull this through.

Mr. Winger made a motion to hear the Ordinance at a public hearing on November 5, 2013. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Turner yes, Mrs. Carroll yes, and Mayor Fletcher yes.

**D) An Ordinance of the City of Vero Beach, Florida, pertaining to Environmental Regulation; amending the Code of the Vero Beach, Chapter 38, "Environment," Article V, "Florida-Friendly Fertilizer Use;" Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the City Council**

Mayor Fletcher read the Ordinance by title only.

Mr. Coment said as directed by Council he brought back an Ordinance similar to what the County passed. He said he removed wheat and feed fertilizer from this Ordinance as it is exempted out. As far as enforcement goes they tried to make it as compatible as they could with what the County has. The County actually has two people named as Code Enforcement Officers and they reside in the Public Work's Department and a person in their Environmental Department. Since the City does not have those positions, the section was deleted from the Ordinance. The County also made their enforcement as a criminal charge, but the City typically would not take someone to Court, but would rely on their code enforcement process.

Mayor Fletcher opened the public hearing at 7:17 p.m.

Mr. John Beukers, 6530 36<sup>th</sup> Place, read his comments into the record.

Mr. Herb Whittall provided Council with some photos showing property that has not been fertilized in over three years and still looks perfectly green.

Mr. Todd Josko, was at today's meeting representing the Statewide Trade Association, who work in the turf industry. He supported the Ordinance that Council has in place at this time. He asked Council to keep that Ordinance in place because it seems to be working. His organization supported it when City Council adopted the Ordinance over a year ago. He referred to the proposed Ordinance and said that he has a problem with the additional restrictions not proven to show additional water quality. He said that the most important time to "feed" turf is in the summer time because it is the growing period. He has some problems with the blackout period as outlined in the proposed Ordinance and he told them why. He understands that they need to protect the Lagoon. He asked Council to keep the Ordinance that Council has on the books now and let it continue to work.

Mrs. Carroll reported on the City of Tampa and their success story with seagrass being replenished.

Mr. Josko said that is because they don't have a blackout period.

Mrs. Carroll read excerpts from an article where it was indicated that there is a blackout period.

Mr. Josko told Council that they need to be careful when looking at trends and picking particular things that contribute to those trends.

Mr. John Davis, 2400 3<sup>rd</sup> Place, supported the strong fertilizer Ordinance.

Ms. Jean Cathpole, 526 Fiddlewood Road, suggested coordinating all of their efforts with the surrounding communities. She asked Council to move forward with the stronger Ordinance.

Mrs. Carroll asked Mr. Bolton to come up to the podium. She had a couple of questions to ask him. She was looking at a document that Council received entitled the Indian River Basin Management Action Plan in cooperation with the Department of Environmental Protection. The plan states that the point source facility throughout the Indian River Lagoon was the Vero Beach Waste Water Treatment Facility who was the largest entity that was putting nitrogen in the Lagoon at 12,000 pounds per year. The Vero Beach RO Plant was also putting in about 3,000 pounds of nitrogen per year. She asked Mr. Bolton if this data was old.

Mr. Rob Bolton, Water and Sewer Director, reported that data was collected probably in the late 1990's through 2004 and published in 2004 as the EPA's negotiations with an environmental firm that sued EPA saying that there was no action being taken on the Indian River Lagoon. He announced that prior to 2010 the City was proactive and put in a Deep Injection Well. He said by putting in a Deep Injection Well it ceased all discharges to the Indian River Lagoon. He agreed that is what they were putting into the Lagoon at one time on an average, however they have not discharged anything into the Lagoon since 2010.

Mrs. Carroll asked Mr. Bolton to explain what happens to the wastewater that goes through the Treatment Plant and how is it not affecting the Lagoon anymore.

Mr. Bolton explained the wastewater that comes into the Water Treatment Plant is treated and the solids are hauled off to a landfill and the water that is left over through the process is filtered and pumped back out to the barrier island and along Indian River Boulevard and provided to people using reuse water. He said that excess water that the City cannot sell has to be pumped down the Deep Injection Well, which is about 3,000 feet deep below the aquifers.

Mrs. Carroll commented that the City recognized that they were one of the main offenders and took action to stop putting anything from their Wastewater Treatment Plant into the Lagoon. She agreed that promoting the proper usage of fertilizers is the next step to take.

Ms. Susan Boyd, 8025 24<sup>th</sup> Street, encouraged Council to pass the strong fertilizer Ordinance. She felt that it was easier for the public if they know the dates that they are not allowed to apply the fertilizer.

Mrs. Turner commented that having started with a very generic fertilizer Ordinance she is delighted to come back at this time with a stronger version. She expressed how important it was that they continue to be consistent with the County and there is a regional approach to handling their Lagoon pollution. Also, that consistency in uniform regulations improves compliance. She said that with the Indian River Lagoon basin they are now calling for a 51% reduction in nitrogen and a 47% decrease in phosphorus. She said these are very aggressive goals. She said although someone might lose a little green grass, she would rather see clean water. She asked Council to move the Ordinance forward for another reading in its present form.

Mr. Brian Combs passed out some information for Council, which he talked about (please see attached). The handout referred to a study and only part of the study was attached. Mrs. Carroll asked Mr. Combs to provide Council with a copy of the complete study.

Mr. Combs noted that the Sebastian City Council voted 4-1 to keep the model fertilizer Ordinance and to say that Vero Beach will be in conjunction with everyone else is not true. He noted that Brevard and St. Lucie County have also adopted a model Ordinance. He said that when Brevard County brought this up they wrote a letter to the Florida Department of Agriculture and Consumer Services asking them about additional restrictions. He read excerpts from the letter dated November 15, 2012 that they received back from the Florida Department of Agriculture and Consumer Services (see attached). He suggested to Council that they ask Dr. Trenholm (person who attended the Sebastain City Council meeting when they were discussing the fertilizer Ordinance) to come and give a presentation to the Council so that they can hear the facts.

Mrs. Carroll asked Mr. Combs what is his biggest concern that would happen to the turf if it doesn't get fertilized for a couple of months.

Mr. Combs could not answer Mrs. Carroll's question.

Mrs. Carroll commented that the City is looking at various issues in trying to improve the water quality in the Lagoon.

Mr. Combs asked Council to read the letter that he provided in their backup material from the Florida Department of Agriculture and Consumer Services and invite Dr. Trenholm to come to Vero Beach and give a presentation.

Mr. Herb Whittall commented that studies show that some of the worst places for the Lagoon are from Royal Palm Place to the Power Plant and the residents in these areas are all on sewer and there are no septic tanks.

Mr. Dan Lampse, Indian River Neighborhood Association (IRNA), read a prepared statement into the record (please see attached). He said that the IRNA supports the Ordinance, but they just want to make sure that it is properly enforced.

At 8:02 p.m., Council took a ten- minute break and the meeting reconvened at 8:10 p.m.

Mr. Craig Demenges, St. Lucie County, Branch Manager for Scott's Lawn Service, felt that the number one cause for this destruction of the Lagoon is because of the rapid growth that Florida has incurred. He explained if grass is not fertilized it will probably decline, but when you fertilize grass it becomes a better filter for the river. He said maintaining a healthy lawn means watering it and mowing it correctly and not applying too much fertilizer to it. He was at tonight's meeting to talk about the Ordinance passed by the County and why Sebastian chose not to adopt that Ordinance. He said there are some true facts and Dr. Trenholm's study provides those facts. He said as an industry they are wise and trained in what they are doing. If this Ordinance passes it will force them as an industry to have to fertilize heavier than they normally would because of the short span. He said that could prove to be dangerous for the water quality, which is what everyone is trying to protect. The reason some areas (as outlined in the Ordinance) are exempt from having this blackout period is because they are high traffic areas and the same principals should apply to lawns. He asked Council that at their public hearing on the Ordinance to call some people in that will give them some sound facts.

Mr. Charlie Pope commented that he is in favor of having a street sign named to honor Mr. Steve Martin (item 9B-2 on the agenda).

Mr. Winger agreed that Mr. Martin was one of the greatest guys that he has ever met.

Mr. John Orcutt commented that he lived on the Lagoon for 28 years and it is much different today then it was back then. He urged Council to pass this strong fertilizer Ordinance. He read a couple of headlines that he found on the internet. He does not believe septic tanks are the only problem impacting the Lagoon. A lot of research shows that grass can survive the summer months without being fertilized. He said in this County there are three solutions to help correct the Lagoon situation. They are stormwater management, septic tanks, and attack the use of fertilizer. He said dealing with only one of these things will not solve the problem. A strong fertilizer Ordinance is the most cost effective solution to this problem. They must try to keep these nutrients out of the Lagoon and it is the right thing to do if you really care about the Lagoon. This is an inexpensive mechanism to try to get some results.

Mr. Bill Bennett, Coral Springs, Florida, General Manager for Scott's Lawn Service in South Florida, stated that there are quite a few of his customers in Vero Beach that will

be impacted by this Ordinance. He may have to cut employees if these blackouts occur. He urged Council to keep the model Ordinance that they have in place.

Mrs. Carroll noted that Mr. Bennett mentioned that throwing fertilizer on a lawn where the root system has deteriorated will revive the lawn. She asked Mr. Bennett if he had any data on that.

Mr. Bennett said that he did not have the factual data with him tonight.

Mrs. Carroll asked Mr. Bennett to send the data to the City Clerk so that Council can review it.

Mrs. Turner made a motion to move the Ordinance to a second hearing on November 5<sup>th</sup>. Mr. Winger seconded the motion.

Mr. Richard Baker commented that a strong fertilizer Ordinance has been passed by over 50 municipalities. He said by controlling nitrogen they are saving the toxic effect. He said a strong fertilizer Ordinance would save people money and most people that put out fertilizer usually do it themselves. If a few turf people are inconvenienced for a four month span, he didn't think that was a big price to pay to help save the Lagoon. This strong Ordinance encourages everyone to take part in protecting the Lagoon. He expressed that the summer ban prohibiting fertilizing being applied to lawns is very important.

Mr. Greg Pheneger, 607 Cypress Road, referred to a study done by the Department of Environmental Protection showing that fertilizer is needed. Dr. Trehnhom is the person that has been going around to different municipalities and discussing this study.

Mr. Kramer said that he would not stand in the way of Council passing this Ordinance. He said if this is what Council wants then he will go along with it.

Mr. Karen Schuster commented that she moved to Sebastian about six years ago and used to love to swim in the Lagoon. Now she is afraid to go in it.

Mrs. Carroll asked if in the Ordinance the City is still having the requirement that only one employee from a Pest Control Company have training as opposed to every employee that would be putting fertilizer on the grass needing the required training.

Mr. McGarry stated that with the commercial applicators all of the employees have to have the proper training certification. He said with businesses that only one employee is required to obtain the certificate.

Mrs. Carroll would like to see everyone trained and not just one person in the business. She asked that this be looked at. Mr. McGarry said that he would review this.

Mr. Coment added that the commercial applicators are required to show proof and with the businesses they are referring to are golf courses, commercial properties, etc., where the employees of the businesses are doing their own lawns and they are only required to have one employees have the training certificate.

Mrs. Carroll was satisfied after hearing that.

Mr. Winger called the question.

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

**E) A Resolution of the City Council, of the City of Vero Beach, Florida, repealing Resolution 2012-18; Establishing Prices and Fees for Crestlawn Cemetery; Establishing Hours of Operation; and Providing for an Effective Date. – Requested by the Public Work’s Director**

Mayor Fletcher read the Resolution by title only.

Mr. O’Connor reported that the proposed Resolution reflects the fees that have been revised in order to meet the business model.

Mayor Fletcher opened the public hearing at 8:46 p.m.

Ms. Alma Lee Loy was at tonight’s meeting to encourage the redevelopment and preservation of Crestlawn Cemetery. She said that Council has the opportunity to make major accomplishments in both areas and she hoped that they were dedicated to doing both. The proposed Resolution appears to be the necessary step and beginning to bring the monetary obligations in line with today’s market. She said that following the adoption of this Resolution it will be the appropriate time for new discussions to take place regarding the preservation of Crestlawn Cemetery. She mentioned there are citizens of this community who are interested in bringing proposals before Council for their consideration.

Mr. Winger made a motion to set the public hearing for the Resolution on November 5, 2013. Mr. Kramer seconded the motion.

Mrs. Turner still had reservations about whether these rates were going to move them towards that redevelopment and preservation that so many of the members of the community would like to see. She said these rates do not give them any additional reserves for another two (2) years and she felt that was a dangerous situation to be in.

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Turner no, Mrs. Carroll yes, and Mayor Fletcher yes.

**6. CITY CLERK’S MATTERS**

**A) Appointments to the High Speed Rail Commission**

Mrs. Vock presented the list of applicants that she had so far from people wishing to serve on the High Speed Rail Commission. There was one gentleman who submitted an application who does not live in the County and would not qualify to be a member of the Commission, but was welcome to attend the meetings.

Mrs. Carroll requested that they table the appointments to this Commission until their next meeting. This will give time for the City to receive more applications from people wishing to serve on this Commission.

Mr. Kramer asked the Council if they would reconsider not having a Council meeting on November 5<sup>th</sup>, which is the day of the Election.

Mrs. Vock informed Council that she has advertised for a public hearing to be heard at that Council meeting.

The Council agreed to have a short meeting on November 5<sup>th</sup> with only the annexation Ordinance to be heard.

Mr. Kramer made a motion to reschedule the hearings on the Ordinances that they heard tonight to November 15<sup>th</sup>. Mr. Winger seconded the motion and it passed unanimously.

**B) Commission/Board Reappointments**

**AIRPORT COMMISSION**

Mrs. Barbara Drndak's term on the Airport Commission expires on November 15, 2013 and she would like to be reappointed to the Commission.

Mr. Kramer made a motion to reappoint Mrs. Drndak to the Airport Commission. Mrs. Turner seconded the motion and it passed unanimously.

**CODE ENFORCEMENT BOARD**

Mr. Kirk Noonan, Mr. James Richardson, and Mr. Harry Howle's terms expire on October 15, 2013. All three members would like to be reappointed to the Code Enforcement Board.

Mr. Winger had some problems with these reappointments. He said the first thing is that he does not think that the City needs a Code Enforcement Board and they should hire a special magistrate to hear the code enforcement cases.

Mr. Coment explained that the Code Enforcement Board Ordinance does provide for a magistrate. He said right now the Ordinance requires that the magistrate live within the

City, be an attorney and to do the job without pay. He has not put any feelers out to find out if there are any attorneys that reside in the City that would volunteer their time. He knows that some municipalities handle their code enforcement cases this way, but it is more common that the magistrate is paid somewhere around \$150.00 an hour. He would suggest if Council wants to handle the code enforcement cases this way, then they should modify their Ordinance to take out the restrictions about having to live in the City. He could explore and see if there is an attorney who would be interested in volunteering their time.

Mayor Fletcher wanted to keep things the way they are. He likes to have a cross section of citizens making decisions rather than having a dictatorial attorney making those decisions.

Mr. Winger continued by saying that Mr. Noonan and Mr. Richardson are not acceptable to him.

It was noted that both Mr. Noonan and Mr. Richardson have been on the Code Enforcement Board since 2004.

Mr. Kramer commented that it is no secret that this is about the short term rental decision made by those members of the Board. He suggested getting the decision from the Courts and if they were right in the decision that they made then they can be reappointed to the Board and if they were wrong then Council will find someone new to replace them.

Mayor Fletcher stated that in the meantime they need some members serving on the Code Enforcement Board. He suggested waiting until the decision comes back from the Courts. He said that they can remove these members at any time.

Mr. Winger agreed with the comments made by Mr. Kramer.

Mrs. Turner suggested that they go ahead and reappoint these members and again review this matter once a decision has been made by the Courts.

Mayor Fletcher made a motion to reappoint Mr. Kirk Noonan, Mr. James Richardson, and Mr. Harry Howle to the Code Enforcement Board. Mrs. Turner seconded the motion and it passed 4-1 with Mr. Winger voting no.

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

None

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

None

## **9. CITY COUNCIL MATTERS**

**A. Old Business**

**B. New Business**

**1. Lifeguard equipment needs – Requested by Councilmember Pilar Turner**

Mrs. Turner provided a list of some capital equipment that is needed for the City lifeguards. She said they are the employees who are on their beaches trying to protect the citizens of this community, along with the visiting tourists. She felt that this was a public safety issue. She recalls seeing many of these items on the lifeguard's wish list five (5) years ago. She believed that the Recreation Department became so discouraged with their capital items not being approved year after year, that they quit bringing them forward. She asked Council to move forward with the allocation of between \$40,000 and \$50,000 to help with the purchase of these things needed for their lifeguards.

Mrs. Carroll realized that Mr. Kramer was working with the Fundraising Committee. She asked Mr. Kramer what kind of dollars was the Fundraising Committee looking at raising over the next year.

Mr. Kramer explained that right now they only have about three (3) events planned. He said one of the events is a fundraiser event that would benefit the lifeguards. He didn't know if they would be able to raise \$50,000, but felt that they would be able to raise a portion of the money. They are also looking for people to sponsor some of the equipment that the lifeguards are asking for. He recalled that the last meeting that he had with the lifeguards it became apparent that there have been some near misses at the beach where people have come very close to drowning. He felt because this is a tourist community that it is their job as City Council to make sure that the visiting tourists are safe. He said by having only one bad accident that it could severely damage the reputation of Vero Beach.

Mrs. Turner knew that all of the budget funds for next year have not been allocated. She requested that some of those funds be used for these capital purchases.

Mayor Fletcher requested that the lifeguards prioritize what they want.

Mrs. Carroll mentioned that was done in the recent survey that the lifeguards did.

Mrs. Turner asked Mr. Slezak that when the list of these items was submitted by the Lifeguard Captain were they prioritized.

Mr. Slezak stated that the Lifeguard Captain presented things in the order of what he would like to have.

Mayor Fletcher requested that the City Manager meet with the lifeguards and prioritize the items that they are requesting and include dollar cost figures for each of the items.

Mrs. Turner told the Mayor that information is available and she was not sure what other information that he needed.

Mr. Kramer also instructed the City Manager to see if he could get the cost for these items down and then bring this matter back to Council.

Mr. Winger also wanted to see how the City Manager plans on financing the purchase of these items.

**2. Street Sign honoring long time Marine Advisory Commissioner Steve Cecil Martin – Requested by Councilmember Jay Kramer**

Mr. Kramer mentioned that he has been working with the Marina Director in coming up with a way to recognize the excellent service that Mr. Steve Martin provided to the City Marine Commission. Mr. Martin served on the Marine Commission for 38 years. Mr. Kramer recalled that some years ago they came up with having vanity signs. He thought having a vanity sign for Mr. Martin would be appropriate and it could be located at the Marina. He said the cost to produce this sign would be around \$60.00. He asked Council if they would approve this expense.

Mrs. Carroll wanted to see some type of an unveiling of this sign so that the members of the public could be present.

Mr. Kramer said if Council would approve the funding, then the Marine Commission could plan the ceremony.

It was the consensus of Council to approve the funding for the new sign.

Mr. O'Connor will proceed in getting the sign and meeting with the Marine Commission on this.

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

**A. Mayor Craig Fletcher's Matters**

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

**B. Vice Mayor Tracy Carroll's Matters**

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

Mrs. Carroll reported on a successful Air Show. She said that the Riverside Children's Theater will be having their annual Haunted House and on October 19<sup>th</sup> the Treasure

Coast Crown Jewel Marching Band Festival will take place. Also, in the Downtown area there will be a Haunted House at the Historic Florida Theater.

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

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

Mrs. Turner reported she would be attending an FMPA meeting on Thursday. She mentioned that the Harvest Food Bank recently celebrated their 10<sup>th</sup> Anniversary. She thanked Council for participating in the bowling fundraiser on Saturday for Big Brothers and Sisters, and that there will be the annual Safespace Walk on Saturday at the Indian River Mall, and for everyone to remember the City Halloween Parade.

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

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

Mr. Kramer reported that he attended the Buggy Bunch dinner, National Night out at Riverside Park, a breakfast meeting with the Vero Beach Lifeguard's Association, and the Air Show. He also was a Judge in the Cupcake Challenge, participated in Bowling for Kids Sake, and the Ribbon cutting ceremony at the Harvest Reachout Center.

Mr. Kramer complimented Mrs. Vicky Gould on being appointed as the new President for Main Street Downtown.

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

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

Mr. Winger thanked Council for signing the letter concerning the Indian River Lagoon that they mailed to the Florida League of Cities.

**11. ADJOURNMENT**

Today's meeting adjourned at 9:16 p.m.

/tv