

**CITY OF VERO BEACH, FLORIDA
SEPTEMBER 17, 2013 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Dan Holloway, Unity Center of Vero Beach, 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. Winger requested that item 9A-2) "Reconsider the City Fertilizer Ordinance in Light of the Newer County Ordinance," be discussed in conjunction with item 2A-3) on the agenda. He also asked that item 9A-1) "Reconsider Signs on Life Guard Stands," be discussed in conjunction with item 3-A) on the agenda.

Mrs. Carroll asked that item 9B-1) "Create a temporary commission to provide public and business input to the City as long-term decisions are made to the downtown rail corridor," be discussed in conjunction with item 2B-4) on the agenda.

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

B. Proclamations/Presentations

1. Certificate to be presented to Mr. George Hart, owner of Mulligans

Mayor Fletcher presented Mrs. Angie Schepers, from Mulligans, with a certificate thanking them for helping the City of Vero Beach.

2. Hunger Action Month – September 2013

Mayor Fletcher read and presented the proclamation.

3. Mr. Troy Rice to give a presentation on Hands across the Lagoon and also update the Council on the general state of lagoon health

Mr. Tory Rice gave a Power Point presentation (attached to the original minutes).

Mrs. Turner noted that Mr. Rice listed fertilizer as being one of the problems of pollution within their estuary. She asked him what is the effectiveness in areas that have a fertilizer Ordinance.

Mr. Rice commented that a lot of the Gulf Coast communities have adopted a strong fertilizer Ordinance and he has seen some studies from Sarasota that shows pretty significant reduction in nitrogen to Roberts Bay (Gulf Coast area) after the adoption of their strong Ordinance. He has also seen a study from Lee County, where they have a Pond Watch Program, and they go out and monitor the stormwater retention ponds that they have in their community. In that community they have seen a reduction of nitrogen in their stormwater ponds. He said that beginning this fall they will be doing a project under the National Estuary Program, where they will be doing some assessments of Lagoon fertilizer applications in their watershed. There are some residential homeowners who have volunteered their yards to serve as demonstration sites. There will be different applications of fertilizer on different yards and some will have no application at all and then groundwater modeling will be done to determine how much effect the fertilizer has. He said that the results will be available in 2015.

Mrs. Turner stated our Lagoon is in crisis. Whatever steps that we can take to stop damaging it any further needs to be done.

Mr. Rice pointed out in addition to all of the studies that they have going on, they are still implementing the capital stormwater projects and there are a number of ongoing water improvement projects.

Mr. Winger recalled that the City enacted a fertilizer Ordinance two years ago and now the County has enacted a fertilizer Ordinance so the community realizes there is a crisis.

Mrs. Turner added that it is now time to take that extra step to pass a more restrictive Ordinance. The County is respecting their home rule, therefore the City has the choice to strengthen their Ordinance. She asked the Council to request their Attorney to prepare an Ordinance in line with what the County has for the City of Vero Beach.

Mr. Winger was in support of doing that. He agreed with the comments that Mrs. Turner made and added that the County has now implemented a fertilizer Ordinance that is stronger than the Ordinance the City has. He said originally when the County passed this fertilizer Ordinance the idea was that their regulations would cover the cities if the cities had no regulations. However, the County has amended that portion of their Ordinance. He agrees that they should strengthen the Ordinance that they have and make it, as much as possible, in uniformity with the County Ordinance.

Mrs. Turner added that for education purposes, both the City and the County Ordinance should be the same so that the community knows what the rules are. She asked the

Attorney to look into how the Ordinance will be enforced and the fine imposed. The County Commission will be imposing a \$500.00 fine.

Mrs. Carroll asked Mr. Rice to repeat the date and time of the Hands Across the Lagoon event.

Mr. Rice expressed that the event will be on September 28th from 9:00 a.m. to 10:00 a.m. at the Barber Bridge. He said that parking will be available at Riverside Park and MacWilliams Park.

Mrs. Carroll mentioned that in the presentation Mr. Rice went over the superbloom causes and said that there was no single factor identified, but there were several items that could be the cause. She asked Mr. Rice if he sees that this will be a continual problem in Indian River County.

Mr. Rice said hopefully it would not. He said there is a seagrass transporting process that they are monitoring to see if it is something that they want to expand. He expressed that there are still some beds out there that are healthy.

Mr. Kramer commented that he has also heard that the County Ordinance is tougher than the City's fertilizer Ordinance, but the County is looking at tweaking it somewhat. He wondered if the City should change their fertilizer Ordinance to model the Ordinance that the County has passed.

Mr. Winger did not think that they should make any decisions tonight, other than asking staff to come up with a recommendation on what an improved Ordinance would look like.

Mayor Fletcher agreed with mirroring the County Ordinance as closely as possible. He asked Mr. Coment to meet with the County to see if they are in a state of flux with this Ordinance or are hard fixed.

Mr. Jim O'Connor, City Manager, recalled that the City has received a letter dated September 10th from the County saying that two modifications will probably be made to the Ordinance. The first modification was the slow release of nitrogen would be effective June 2014 and also they will only be doing enforcement in the unincorporated areas and not in the different cities. He would recommend that they continue watching to see what the County does with their Ordinance. He said that enforcement will be very challenging, not only for the City, but Countywide.

Mayor Fletcher asked Mrs. Turner if she would stay on top of the revisions being made to the County Ordinance and then bring this matter back to Council.

Mrs. Turner stated that she would be happy to do that. It was the consensus of Council that they were in favor of doing this.

Mrs. Carroll noted that there are a lot of people who do not hire fertilizer companies to take care of their grass, but they go over to the local establishments and purchase bags of fertilizer and apply it themselves. She asked will the County fertilizer Ordinance impact the type of products that can be sold at establishments throughout the County.

Mrs. Turner explained that the County is not allowed to restrict what products are sold, however they have committed to work with the suppliers of fertilizer in the area to abide by the Ordinance and ask for their cooperation. She said this has been done on the west coast of Florida where they have had the stricter Ordinance enforced for quite some time and people that supply the fertilizers have complied.

Mr. Winger asked about the status of the Lagoon brochure.

Mrs. Carroll reported that there is one community service organization (Sunrise Rotary) who volunteered to donate \$500.00 towards the implementation of providing these brochures.

Mr. Rice stated that his organization has also committed to provide \$1,000.00 towards the brochure, whenever the City needs it.

Mrs. Carroll stated that with these contributions, the total still needed for the brochure is \$1,500.00.

Mr. Winger suggested that the City pay the remaining costs and that they go ahead and mail out the brochure.

Mr. O'Connor stated that since there is a vote of Council to do that then they will proceed in that direction.

Mr. Kramer noted that there is money left over in the City Council's budget to cover the additional costs for the brochure.

It was a unanimous vote of the Council to proceed with printing the Lagoon brochure.

Mrs. Turner thanked Mrs. Orcutt for all of her hard work on the brochure.

4. Mr. Russell Roberts, Florida East Coast Industries, to give a presentation – update on All Aboard Florida Passenger Railroad Project

Mr. Russell Roberts, Florida East Coast Industries, was at tonight's meeting to educate the public on what is going on with All Aboard Florida. He gave a Power Point presentation.

Mrs. Carroll heard Mr. Roberts say that this project will produce around 45,000 jobs throughout the State. She asked what jobs will be created in Indian River County.

Mr. Roberts explained that their corridor is about 100 feet wide and Florida East Coast Industries will be double tracking the entire line. He said that they will also be doing a lot of grade crossing, making safety improvements, new gates, etc. He said that they will not just be hiring one company to do all of the work, but a couple different companies, and the companies that they hire are encouraged to hire local people to do the job.

Mrs. Carroll heard Mr. Roberts mention fencing and safety improvements. She agreed that a train going through their town at 75 mph is very fast. She asked him what kind of things were they planning on putting in and did the City need to get him a plan of what they would like to see, such as walks put in, etc.

Mr. Roberts reported that starting on October 1st a team of qualified people will be studying what needs to be done. He said they will be looking at every grade crossing and it will take about two months before they are finished. There may be areas that need fencing if they see there is danger where people cross the tracks. He said that they may have to get the public to go to the pedestrian crossing. He said this data will be shared with the different cities and counties involved.

Mrs. Carroll asked Mr. Roberts if he will be notifying them when this Team is visiting their County. She was concerned that they only had between October 1st and December 2nd to determine if it would be their desire to create a quiet zone. She noted that she put on tonight's agenda the concept of creating a Committee to look into this.

Mr. Roberts expressed that there will be time for the Committee to study the quiet zone and it doesn't have to be completed by December 2nd. He said that on November 9th they will be doing an environmental impact study only and not the construction zone.

Mr. Richard Pensky, Florida East Coast Industries, added the City will have plenty of time after the data comes in to start the public input process and hopefully making some decisions for the future.

Mrs. Carroll commented that in the past the City has been billed for two of their crossings. She asked if that still will be the case as they double the track and move crossing arms and all of these different upgrades.

Mr. Roberts agreed that the City does have agreements with the railroad that has been in place for a long time. His company has been talking to the railroad and his company has agreed that they will not pass any costs to the cities for the grade improvements that are needed and the agreements will remain in place. He explained that this will not include the quiet zone and any of the extra options if the cities choose to go with them. His company does pledge to work with all of the entities who want quiet zones, but the cities will have to pay for the work.

Mrs. Carroll suggested piggybacking and doing the work at the same time as the improvements are being made. Mr. Roberts agreed that it would be cost effective to do the work at the same time.

Mr. Kramer asked if it would be an option to shut down some of their crossings if this project was too expensive.

Mr. Roberts explained that if the City chooses to shut down any of their crossings then his company will take the money that they would have used for improvements and apply it towards the quiet zone.

Mr. Roberts said that he would find out exactly when the Team will be in this County looking at the crossings and notify the City and the Council. He did not think that anyone from the public would be allowed to be there when they are making their inspections. He said that he would probably be working with their Engineer on the quiet zone and some counties have their MPO's doing the work for the quiet zones.

Mrs. Carroll explained that it was discussed at the last MPO meeting and it will be on their next agenda for the whole County to work together on this project.

Mayor Fletcher asked Mr. Roberts when he expected to add more stops then what was showing now.

Mr. Roberts explained that the route planned now is with a profit in mind. They will build the base system once it gets running and then go from there. He said that this is the only privately owned rail enterprise to do a project like this in the last 50 years.

Mr. Winger recalled that about a year ago the Treasure Coast Regional Planning Council and others were looking at having Am Track come through the area. He asked if that project was off the table. Mrs. Carroll noted that it was still in the possibility stage. Mr. Roberts added that there has not been much discussion about that project because of lack of funds. However, discussions could begin again in the future.

Mrs. Carroll made a motion to begin creating a temporary Commission and taking applications from individuals to provide input to the City as they move forward on this. Mrs. Turner seconded the motion.

Mayor Fletcher recommended that they have an Engineer, Planning and Zoning Board member, someone from Downtown Main Street, and someone from the Chamber of Commerce be on the Committee. He asked Mrs. Carroll to work on the members to be on the Committee and bring it back to the Council. The City Attorney was instructed to do a Resolution forming a new Committee. The Committee's name will be "High Speed Rail Commission."

Mrs. Sue Dinunno mentioned all the debris that needs to be cleaned up around some of the tracks.

The motion passed unanimously.

C. Public Comment

1. Mr. Bill Johnson to talk about Day of Service.

Mr. Bill Johnson told Council that this was the sixth year in a row that they would be holding Day of Service in Indian River County. He said that he is co-chairing the event this year. He introduced Mr. Robin Volsky, and Bishop Charles Hobbard.

Mr. Volsky explained that the event brings together 20 different churches and civic organizations in the community. In the past years they worked with agencies in finding the work that needed to be done in the community. There were some individuals that they helped by cleaning up their yard or doing some chores for them. The Day of Service will be on April 26, 2014. He asked everyone to please put this date on their calendars and plan on coming out again to support their community.

Bishop Charles Hobbard appreciated the opportunity to be at tonight's meeting. He is very grateful to the support of the community in putting on this Day of Service and proud to be a member of this community.

Mayor Fletcher asked how someone from the public would find information about Day of Service. He was told the website address to find out additional information is Iredayofservice.org.

Mrs. Turner agreed that this was a terrific opportunity to perform service in their community and that the opportunity for youth of this community to help. She thanked them for having this event in their community.

At this time, Council took a break at 7:30 p.m. and reconvened the meeting at 7:50 p.m.

Mayor Fletcher observed the passing of Mr. Steve Martin, who served the last 37 years on the City's Marine Commission.

Mr. Martin Zickert, Indian River Veterans Council, announced that the Air Show will be two weeks from now. Also, the Blue Angels have confirmed that they will be at the next Air Show scheduled for Mother's Day weekend.

Mr. Eric Toomsoo, President of the Vero Beach Lifeguard Association, thanked Council for voting to fund guarded beaches this year. He also thanked them for attending some of the fundraising events that the lifeguards have had. He said that some days when the lifeguards leave Humiston Beach at 3:00 p.m. there are still a lot of people swimming in the ocean and that bothers the lifeguards to have to leave the beach unattended. He said that the lifeguards support the hot dog stand, umbrellas & chairs concept, and advertising signs on the lifeguard stations. They also want to keep Vero/Vero.

Mr Wesley Getzel, 800 Coquina Lane, was at tonight's meeting to let Council know that he was in favor of having advertising signs on lifeguard towers. He said this will bring

revenue to the community and the beaches in Vero Beach are vital assets to their community.

Mr. Brian Heady recalled at the last meeting that he was asked by a Police Officer to leave the podium. He put up a picture on the doc cam showing the event. He asked the Council to tell him what part of the Constitution does not allow someone from the public to use the names of the City Council. He was removed from the meeting because Mayor Fletcher said he was making his comments personal. He was naming the City Councilmember who was charged with a code enforcement violation. He noted that he wrote the book, liars, cheats, & thieves, and used real names in the book so it would be clear who he was talking about. He referred to the Police Officer who was asked to remove him from the podium and said that the Officer probably felt that it was not appropriate. He said that it was not against the law to mention names of someone involved in code violations. However, what is against the law is when the Vice Mayor reaches over and whispers something to the Mayor and the public does not know what is said. He asked what Mrs. Carroll whispered to the Mayor at the last Council meeting. Neither party said anything. Mr. Heady mentioned at the last meeting when he was being removed from the podium all of the Council sat in silence and did not say anything.

Mr. Paul Tripaldi, Windcove Road, was in favor of advertising signs on the lifeguard towers and asked Council to approve the Ordinance on tonight's agenda. He passed out a picture showing signs that are already posted in the area (please see attached).

Mr. Ken Daige was in favor of banners being displayed on lifeguard stands. He suggested that the proceeds made from these banners go towards helping the lifeguards.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – September 3, 2013**
- 2. Special Call City Council Minutes – September 3, 2013**
- 3. Utility Easement #2013-EG-0129 – Chase Bank – Indian River Square**
- 4. Extension of Bid 280-10/JV – Supply of Gasoline and Diesel Fuel to the City Marina – Contract #1510-C-Port Consolidation, Inc.**
- 5. Request to Serve Alcohol at Royal Palm Pointe – Fundraising for Fun Committee**

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

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, Providing that the Code of the City of Vero Beach be amended to Add a New Chapter 79 entitled “Advertisement Space on Municipal Property”; Providing for the Sale of Advertisement Space on Municipal Property; Providing for Conflict and**

Severability; Providing for an Effective Date. – Requested by the Recreation Director

Mayor Fletcher read the Ordinance by title only.

Mr. O'Connor reported that if this Ordinance passes, he would draw up an RFP to meet the standards for advertising on lifeguard stations.

Mr. Winger said the statement that the City needs the funding in order to have the lifeguards is completely inaccurate. He will stand for fully funding the lifeguards as they have in the past. It is the responsibility of the City to fund the lifeguards and not the responsibility of the lifeguards to fund themselves. He recalled at their last meeting he suggested tabling this matter and letting the public have time to understand it. Since that time, he has received a lot of comments from citizens who live on the beachside who think that this is rather tawdry and the City does not need to do this. He told Mr. Tripaldi how he felt about this and noted that with the economy coming back they will see development in this City again and the question is what is consistent with Article 3.1 of the Vision Plan. He said that to him putting signs up like this is contrary to the Vision Plan. He said that he would vote no to passing this Ordinance.

Mrs. Carroll said if the City Manager does not mind she would like to ask Mr. Slezak and Mr. Toomsoo some questions. She said with the budget just passing they have funded the three lifeguard stations that they have in the City.

Mr. Rob Slezak, Recreation Director, told her that was correct. The hours of operation for the lifeguard stations at Jaycee and South Beach is 9-5 every day of the year and at Humiston Beach it is 10-3 every day of the year except for spring and summer breaks and then the hours are 9-5.

Mrs. Carroll noted that currently there is not a lifeguard station at Conn Beach. She asked if there have been any emergencies that have taken place on Conn Beach that have resulted in injuries.

Mr. Slezak said that there have been instances where lifeguards have been called in those areas.

Mrs. Carroll asked him if he sees other locations in the City where the beaches need to be guarded, and at this time are not being guarded.

Mr. Toomsoo explained with the tower at Jaycee Beach the lifeguards can see Conn Beach. However, there is a blind spot near the Spires condominium and that is an area where there are a couple of hotels located. He feels that there should be a tower in that area around Mulligans restaurant. He noted that last week there were three rescues that took place in that area by a civilian.

Mrs. Carroll felt that whatever they could do to add funding in order to more adequately protect their beaches for their citizens and tourists is a great thing to do.

Mr. O'Connor commented that the amount of money that is going to be generated by doing this will be relatively small and will not pay for a lifeguard, but it is a way of generating some revenue. In the discussions that he has had with the provider of this type of service what they are really looking for is marketing the local businesses. He did not think that it would be anything detrimental to the beach, but at the same time will provide some information to the community.

Mrs. Turner stated that she would love to see them continue to search for ways to raise money and support recreation. However, this project for the small amount of revenue that it will generate is not something acceptable to everyone in the community. She said that the signs would be put on their towers and done for a three year period. She would rather see the money come from their tourist taxes. She would not be in support of the Ordinance.

Mr. Kramer asked Council to keep in mind that this was an enabling Ordinance and that they were not voting on towers. He said that when the issue comes up to vote on a contract for the towers then it will have to come before the City Council. He said that this Ordinance covers other places to advertise. Mrs. Turner said like the garbage trucks. Mr. Kramer told Mrs. Turner that is a possibility, but it would have to be approved by Council. He continued by saying that the Council has a responsibility of upholding the standards of Vero Beach. He does not want to see them clutter their City, and again reiterated that this is an enabling Ordinance and there will be times when it does and does not fit, but Council will make that decision. This Ordinance does not say that they are going to be putting advertising on the lifeguard towers. He suggested looking at the contract that Mr. Tripaldi has and shortening the trial period.

Mayor Fletcher opened the public hearing at 8:29 p.m.

Mr. Ken Daige stated that he heard Mrs. Turner say that this is a three year contract. He did not realize that.

Mr. O'Connor explained that agencies that do this type of work like to have it in place for at least three years in order to get a return on their investment.

Mr. Daige continued by saying that he has heard a lot of legitimate concerns tonight and he is concerned about putting banners up. He said anything that is done needs to be done tastefully. He recalled that banners have come up before and it was agreed that they can get out of hand. He mentioned the tourist tax dollars and where the money goes.

Mrs. Sue Dinunno stated that she is a member on the Recreation Commission and when the Commission talked about this item they noted that this was just not for the salaries of lifeguards, but for all of the things that they need to do their job properly. She said that the lifeguards do need their help.

Mr. Brian Heady commented that Mr. Winger used the word “consistent” and he agreed that they do need to be “consistent.” He recalled some years ago the banners located at Vero Beach High School and the fence in front of the football field came up and was handled with some restrictions imposed.

Mr. Tripaldi commented that his agency is responsible for the advertising that is seen on the Go-line buses. He said the revenue received from this project would be close to \$24,000 when you consider the advertising on all of the lifeguard stations. The vote today is for an Ordinance that allows the City to consider putting out an RFP for contracts of this nature and to consider signs be put up on some City property if they choose. The contract itself would detail what can or cannot be done and for how long. The actual Ordinance was written well because it has the ad policy in the Ordinance. It is the actual policy that was adopted with the County. He asked Council to let the public entities help them.

Mrs. Carroll asked Mr. Slezak how much it costs to have Humiston Beach guarded. Mr. Slezak said about \$140,000.

Mr. Winger did not see that they have a need to see advertising on any structure. This is a philosophical question on what they want the City to look like and not about money.

Mayor Fletcher closed the public hearing at 8:43 p.m., with no one else wishing to be heard.

Mayor Fletcher stated that he was not in favor of the passage of this Ordinance. He made a motion to oppose the Ordinance. Mr. Winger seconded the motion.

Mrs. Carroll asked will this discussion cause the City to no longer allow signs that are up already (she referred to the picture of the sign provided to them by Mr. Tripaldi).

Mr. O’Connor answered no.

The Clerk polled the Council to oppose the Ordinance and it passed 3-2 with Mr. Winger voting yes, Mrs. Turner yes, Mr. Kramer no, Mrs. Carroll no, and Mayor Fletcher yes.

Mr. O’Connor commented that he is working on ideas to try and generate revenue for the Recreation Department, so Council may be seeing different things coming before them. He does not take it personal if they approve or reject some of these ideas.

B) A Resolution of the City of Vero Beach, Florida, Establishing Rates and Fees for the Collection and Disposal of Solid Waste and Recyclable Material and Sale of Items used for collection purposes; Repealing Resolution 2012-2014; Providing for Conflict and Severability; Providing for an Effective Date – Requested by the Public Work’s Director

Mayor Fletcher read the Ordinance by title only.

Mr. O'Connor stated that these new rates and fees are for the collection and disposal of solid waste and recyclable material. The rate adjustments have been included in the budget that just passed.

Mrs. Turner noted that there was a rate increase in 2012 and now they are doing another increase in 2013. She asked if staff will come back in 2014 requesting another increase.

Mr. O'Connor said that he does not anticipate having to come back next year and ask for another increase.

Mayor Fletcher opened and the closed the public hearing at 8:48 p.m., with no one wishing to be heard.

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

C) An Ordinance of the City of Vero Beach, Florida, amending Chapter 76, Historic Preservation, of the City of Vero Beach Code to meet the requirements of the Florida Certified Local Government Program and to make minor editorial changes in the content and formatting of the text; 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.

Mayor Fletcher opened and closed the public hearing at 8:49 p.m., with no one wishing to be heard.

Mrs. Carroll noted that there was information in the Ordinance about archeological digs and wondered if this would affect the Old Vero Man site.

Mr. McGarry answered no. He said that the Old Vero Man site is located on County property.

Mr. Kramer made a motion to approve the Ordinance. 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.

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 Sections 72-42 and 72-43 of Article IV, Chapter 72, Landscape and Tree Protection of the City of Vero Beach Code; Providing for Revisions to Permitting Procedures for Removal of Specimen Trees and Mitigation Requirements for Tree and Palm Removal; 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 gave a summary of some of the revisions to the Tree Protection Ordinance. He said that application requirements have been revised to allow multiple specimen trees to be included in one application. The contents of the tree removal application have been revised to be consistent with the changes in mitigation requirements. The existing subsection dealing with specimen trees has been eliminated and combined with protected trees and palms under a new subsection. Additionally, language has been added to address existing trees located within the protection zone for trees and palms. The provisions to obtain a waiver from the application of the standards in existing subsection (e) have been eliminated. The Planning and Zoning Board met and approved the Ordinance subject to amending Section 72.43(b)(3) to incorporate a single adjustment factor for mitigation of trees removed outside the required yard setbacks. He recommended that the Ordinance be scheduled for a public hearing on October 1, 2013.

Mr. Winger referred to the minutes of the July 18th Tree and Beautification Commission meeting, where this matter was discussed. He did not see that a vote was ever taken.

Mr. McGarry explained that a vote was not taken at the Tree and Beautification Commission meeting, however a public hearing was held at the Planning and Zoning Board meeting.

Mr. Winger did not like diversity of trees. He felt that an Oak tree, if removed, should be replaced with another Oak tree. He said they must remember that the beachside was an oak hammock. He referred to his house and noted that he built around the trees. However, if you look at the house in Central beach that had specimen trees on it or in the Indian Bay area was one of the oldest trees in Vero Beach. Those trees were taken down and the action was to some degree extreme and the decision was made by the Planning and Zoning Board. He said a tree that is one-hundred years old, he doesn't care where it is located on the lot, needs more than the consideration of the Planning Director. He would feel better if the Planning and Zoning Board would address specimen trees. He thought that the Ordinance needed to be amended to say that a specimen tree needs to go in front of a Commission (Planning and Zoning Board).

Mrs. Carroll commented that Mr. McGarry mentioned that this matter was addressed by both the Planning and Zoning Board and the Tree and Beautification Commission. She

asked where is the demarcation between the responsibilities of the two separate Boards in terms of these issues.

Mr. McGarry stated that the full responsibility lies with the Planning and Zoning Board. The matter was discussed with the Tree and Beautification Commission to get their input.

Mrs. Carroll continued by saying that Mr. McGarry had mentioned that with these modifications the decision would come from his office and public comment would not be allowed.

Mr. McGarry explained that there are specific criteria that the Planning and Zoning Board follows and nothing comes out of these hearings then if the Planning Director was making the decision. The real question came down to mitigation.

Mrs. Turner complimented staff and the Boards on doing a great job to provide clarity to this area and to remove the subjectivity of enforcement.

Mr. O'Connor added that this will streamline the process for the applicant and the applicant will not have to go through a lot of hoops.

Mr. McGarry wanted to make the statement as to whether someone should have their neighbor talking about this. He expressed that this is a private property matter. He agreed from a public interest standpoint a process needs to be followed to show that the criteria is being met.

Mr. Winger asked what is wrong if they are discussing a specimen tree, having it go before the Planning and Zoning Board. He did not understand why the Planning Director needs to have all of the authority.

Mr. McGarry explained that the Planning and Zoning Board does not like to have to handle these cases and he has never seen them deny an application. The real question gets down to how much mitigation is going to be applied. He is trying to balance public property rights versus the rights of the public on the tree mitigation.

Mr. Kramer said the only problem that he has with this is the notice. He said if someone has a specimen tree that needs to be removed then the neighborhood needs to be noticed. He said that the neighborhood should be given the chance to weigh in. He knows of some Oak trees in the area and if they were to be cut down, it would be a shame.

Mr. McGarry commented that they could set a limit, such as if someone has a certain size Oak tree or an Oak tree that is a certain age that the matter has to go to the Planning and Zoning Board. He said in the past there has not been a lot of specimen trees come before the Planning and Zoning Board.

Mrs. Turner made a motion to hear the Ordinance at a public hearing on October 1, 2013. Mayor Fletcher seconded the motion and it passed 4-1 with Mr. Winger voting no, Mr. Kramer yes, Mrs. Turner yes, Mrs. Carroll yes and Mayor Fletcher yes.

Mr. McGarry will bring some options to the Council at the public hearing.

- B) An Ordinance of the City of Vero Beach, Florida, Requested by Lichtenberg Corporation of Delaware to amend the Official Zoning Map by Changing the Zoning District Designation from C-1B, General Commercial Trades and Services (0 Units Per Acre) to C-1, Highway Oriented Commercial (up to 30 Transient Units per acre) containing 2.06 acres, more or less, for property located at 601 21st Street, including a portion of Lot 8, Plat of the Estate of H.T. Gifford, Lot 14, Block 1, Oak Park, and a portion of Tract "A" of the Replat of Park View; Providing for an Effective Date – Requested by the Planning and Development Director**

Mayor Fletcher read the Ordinance by title only.

Mr. McGarry noted the passing of this Ordinance is part of the hotel development property. He did not want to get into specifics because this would be a quasi-judicial hearing.

Mrs. Turner noted by changing the zoning that vehicular sales would be allowed in this area. Mr. McGarry explained that approval is needed for that to occur.

Mrs. Turner made a motion to set the public hearing for October 1, 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.

6. CITY CLERK'S MATTERS

- A) Discuss holding Council meeting on Election Day – November 5, 2013**

Mrs. Vock noted that their regularly scheduled meeting on November 5th was also Election Day. She asked Council if they wanted to hold their Council meeting on that day. Council agreed that they would still have their Council meeting on November 5, 2013.

7. CITY MANAGER'S MATTERS

- A) UnitedHealthcare Letter of Understanding**

Mr. O'Connor announced that the City has changed insurance carriers and is now going with UnitedHealthcare. He also reminded Council that Saturday was United Way's Day of Caring.

8. CITY ATTORNEY'S MATTERS

Mrs. Carroll referred to the memo that the Planning and Zoning Board received from Mrs. Lyon concerning allowing public comments at their meetings. She just wanted to make sure that the City was meeting all of the open meeting laws and whether anything needed to be changed in their Code to comply with the new law.

Mr. Coment reported that the new law requires that the public is given a reasonable opportunity to be heard. He said looking at this government body that historically over the last couple of years they have allowed the public to speak even more than what is outlined in their Code (three minute rule).

Mrs. Carroll asked if all of their Board/Commissions allow public comment.

Mr. Coment said all of the Boards do with the exception of the Code Enforcement Board, because of due process issues. He did not think that the City needed to make any changes to their Code regarding this matter.

It was noted that a couple of years ago, Council made it a policy that the Board/Commissions would have a section on their agendas devoted to public comment.

9. CITY COUNCIL MATTERS

A. Old Business

1. Reconsider Signs on Life Guard Stands – Requested by Councilmember Richard Winger

This item was heard earlier in the meeting.

2. Reconsider the City Fertilizer Ordinance in Light of the Newer County Ordinance – Requested by Councilmember Richard Winger

This item was heard earlier in the meeting.

B. New Business

1. Create a temporary commission to provide public and business input to the City as long-term decisions are made to the downtown rail corridor, crossings and possible quiet zones, and the impact of high-speed rail on the community – Requested by Vice-Mayor Tracy Carroll

This item was heard earlier in the meeting.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Craig Fletcher's Matters

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

None

B. Vice Mayor Tracy Carroll's Matters

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

Mrs. Carroll announced that she was one of 55 people selected from around the State to participate in the Leadership Florida program. It is a program to develop skills and learn all of the components that make up the State of Florida. She will be meeting for the next three days for the start of the program, which takes place the entire year. She said that the Chamber of Commerce offers a leadership program, which she and Mr. O'Connor both participated in. She then went over some of the events that will be taking place over the next couple of weeks. The Comedy Zone at Riverside Park, the Oceanside Business Association concert is Saturday night, Downtown's Friday night event, Culture Art Networking, Celebrate the Arts festival, Firegirls 5k run on South Beach, and on October 1st the City of Vero Beach will have their annual National Night Out.

Mrs. Carroll reported on the MPO meeting that both her and Mayor Fletcher attended.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that next week she will be attending an FMPA Strategic Planning session.

D. Councilmember Jay Kramer's Matters

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

Mr. Kramer attended the Buggy Bunch food frenzy last Saturday. He reported that at the Enterprise Zone meeting they asked if the City would be interested in allocating some of their miles in their zone and give those miles to Fellsmere.

Mrs. Carroll did not know if that was a good idea because they could lose some businesses that might want to go in their Airport Enterprise Zone.

Mrs. Carroll referred to a flyer that she received on a Florida League of Cities revitalization seminar that someone from Council might want to attend (information in the City Clerk's office).

E. Councilmember Dick Winger's Matters

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

Mr. Winger will be attending a Florida League of Cities Policy Committee meeting on Friday. He also reported on the Beach and Shores Committee meeting that he and Mr. O'Connor attended.

Mrs. Turner reminded Council that the Treasure Coast Regional Planning Council meeting would be tomorrow at the Vero Beach Hotel and Spa.

11. ADJOURNMENT

Tonight's meeting adjourned at 9:24 p.m.

/tv