

**CITY OF VERO BEACH, FLORIDA**  
**APRIL 6, 2010 9:30 A.M.**  
**REGULAR CITY COUNCIL MEETING**  
**CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**A G E N D A**

**1. CALL TO ORDER**

- A. Roll Call
- B. Invocation – Reverend Diego Flores/Asbury United Methodist Church
- C. Pledge of Allegiance

**2. PRELIMINARY MATTERS**

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
  - 1. Proclamation to be given to Heather McCarty for obtaining her certification as a Certified Records Manager
  - 2. Certification of Completion of the Institute for Elected Municipal Officials Training to be given to Councilmember Brian Heady
  - 3. Child Abuse Prevention Month – April 2010
  - 4. National Telecommunicators Week – April 11-17, 2010
  - 5. Hibiscus Festival Weekend – April 16-17, 2010
- C. Public Comment
- D. Adoption of Consent Agenda
  - 1. Regular City Council Minutes – March 16, 2010
  - 2. Rotary Nautical Flea Market
  - 3. Final Payment Request – Substation #11 (South Beach) Rip Rap Wall – Custom Built Marine Construction, Inc.
  - 4. River Crossing – Emergency Purchase Order

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

**3. PUBLIC HEARINGS**

- A) 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, 2009 and ending September 30, 2010, by decreasing the Water & Sewer Fund by \$888,642 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R & R Fund by \$4,388,642 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.

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

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

- A) An Ordinance amending Chapter 2, Article VIII (Purchasing and Contracts) of the Code of Ordinances of the City of Vero Beach to replace Section 2-351(7), "Local Bidders," with a New Section 2-352, "Local Preference in Purchasing or Contracting," to provide for an expanded Local Preference Policy and Procedure for Local Businesses in City Purchases or Contracts; including Brevard, Indian River, Martin, Okeechobee, and St. Lucie Counties in the definition of "Local Business;" Providing for severability; and providing for an effective date.
- B) An Ordinance of the City of Vero Beach, Florida, renumbering and amending Chapter 30, Alcoholic Beverages, of the Land Development Regulations of the City of Vero Beach, providing for restrictions as to the Location of Establishments dealing with or in Alcoholic Beverages; providing for exceptions; providing for consistency with Section 562.45(2) of Florida Statutes; Providing for Method of Measurement of separation distances from Schools and Places of Worship; providing for conflict and severability; and providing for an Effective Date.
- C) An Ordinance of the City of Vero Beach, Florida, amending Chapter 73, Article II, Drainage and Article III, Stormwater Management of the City of Vero Beach Code; deleting existing Article II, Drainage and replacing it with New Article II, Stormwater Management; deleting existing Article III, Stormwater Management and replacing it with New Article III, Construction Site Erosion and Sediment Control; creating New Article IV, Municipal Separate Storm Sewer System; providing for requirements; standards and review procedures for Stormwater Management Plans for Single Family/Duplex, Nonresidential, Multiple Family, and New Subdivision Development; providing for Requirements, Standards, and Review Procedures for Erosion and Sediment Control Plans for Construction Activity; providing for Florida Department of Environmental Protection Generic Permits for Certain Land Disturbing Activities; providing for Regulations for Discharges to the Municipal Separate Storm Sewer System; providing for Conflict and Severability; and providing for an effective date.

**6. CITY CLERK'S MATTERS**

- A) Update on United Way Campaign
- B) Meeting with the School Board
- C) Live Video Streaming

**7. CITY MANAGER'S MATTERS**

- A) Airport Obstruction Survey
- B) Award of Contract to Ranger Construction Industries to Rehabilitate Runway 11L/29R, Taxiway F and Connectors (Bid No. 440-09/CSS)

**8. CITY ATTORNEY'S MATTERS**

**9. CITY COUNCIL MATTERS**

- A. Old Business
  - 1. Councilmember's time allotment under his/her matters – Requested by Mayor Sawnick
  - 2. Items pulled from consent agenda – Requested by Mayor Sawnick
  - 3. Items on agenda under new business and old business – Requested by Mayor Sawnick
- B. New Business

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

- A. Mayor Kevin Sawnick's Matters
  - 1. Correspondence
  - 2. Committee Reports
  - 3. Comments
- B. Vice Mayor Sabin Abell's Matters
  - 1. Correspondence
  - 2. Committee Reports
  - 3. Comments
- C. Councilmember Tom White's Matters
  - 1. Correspondence
  - 2. Committee Reports
  - 3. Comments
- D. Councilmember Brian Heady's Matters
  - 1. Correspondence

2. Committee Reports
  3. Comments
- 
- A) FP&L Bid Original
  - B) Progress of Internet connection for meetings
  - C) Still waiting for written answers from City Manager
  - D) OUC Contract
  - E) 50MM penalty
  - F) November Elections
  - G) Debate on Sale of Electric
  - H) 8/12/08
  - I) Limiting effectiveness of Council Members
  - J) Direction City Manager selection process
- 
- E. Councilmember Ken Daige's Matters
    1. Correspondence
    2. Committee Reports
    3. Comments

## **11. ADJOURNMENT**

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

**CITY OF VERO BEACH, FLORIDA  
APRIL 6, 2010 9:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, excused absence; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

**B. Invocation**

Reverend John Kerry of Asbury United Methodist Church gave the invocation.

**C. Pledge of Allegiance**

The audience and the Council joined in the Pledge of Allegiance to the flag.

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mayor Sawnick pulled items 9-A) 1, 2, & 3, off of the agenda and asked that they be heard at their next City Council meeting.

Mr. Heady requested that under his items two items be added. The items are discussion of pain clinics and the A-1-A sidewalk project.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed 4-0.

**B. Proclamations**

- 1. Proclamation to be given to Heather McCarty for obtaining her certification as a Certified Records Manager**
- 2. Certification of Completion of the Institute for Elected Municipal Officials Training to be given to Councilmember Brian Heady**
- 3. Child Abuse Prevention Month – April 2010**
- 4. National Telecommunicators Week – April 11-17, 2010**
- 5. Hibiscus Festival Weekend – April 16-17, 2010**

Mayor Sawnick read and presented all of the proclamations.

### **C. Public Comment**

Mr. Charlie Wilson stated that his Committee has completed the petition and it is ready to go to the printer. He noted that the website for the Committee known as Operation Clean Sweep has been completed. He then read to Council what the legal language of the petition is (on file in the City Clerk's office).

Mayor Sawnick told Mr. Wilson that his three minutes was up and that he needed to finish with his comments.

Mr. Heady asked for a Point of Order. He said that since Mayor Sawnick has been Mayor he has been allowing people to speak without any time limits. He asked Mayor Sawnick if this was going to be the new way he was going to be conducting business. He said it seems that at every meeting he changes things. He has a problem with these constant changes and he always has a problem when citizens are not allowed to speak.

Mayor Sawnick stated that the Council could appeal his decision.

Mr. Daige commented that as far as he knows they are allowing public input and the time limit was lifted. He asked that Mr. Wilson be allowed to continue.

Mr. Wilson continued by saying that the City Council gives direction to their Charter Officers and they (Charter Officers) work at the direction of the Council. He asked the question, what is Council's direction here. He requested a meeting with the City Attorney for the purpose of making sure that the petition progresses in a legal and acceptable way. The object of this was to try to avoid what happened earlier (speaking of the Election where he was removed from office). He asked City Council if it was their direction to the City Attorney to assist in making sure that they have a legal election or to block a legal election.

Mr. White answered neither.

Mr. Heady agreed with Mr. White that was the correct answer.

Mr. Wilson stated that he talked to Mr. Frank Zorc and was told that the same thing happened with the referendum for the beach renourishment program. Mr. Wilson continued by saying that what they will do is get the 1,060 required signatures, and present them knowing you will disqualify them and then they will go and get them again.

Mr. Heady requested to address the comments just made by Mr. Wilson.

Mayor Sawnick asked him if he would mind waiting until after everyone from the public who wishes to speak has had a chance to speak.

Mr. Heady said that he would rather not wait. He asked if he could address the issue at this time.

Mayor Sawnick answered no, not at this time.

Mr. Heady said that he would appeal that decision to the Council.

Mayor Sawnick noted that appeal of a decision does not require a second. He told Council if they voted in favor it would mean that they are voting in favor of his decision.

Mayor White asked to speak under discussion before they voted. He felt that response after a person speaks is probably more in line. He would rather that Mr. Heady be given permission to make his comments now, than waiting until later and bringing the matter up again and having it drawn out.

Mr. Daige had no problem with the procedure as just outlined by Mr. White. He said that they have done it that way in the past.

Mr. Heady told Mr. Wilson that he does not think that the City Council wants the City Attorney to obstruct anything. He agreed with Mr. White's comments that the Council's position is neither. He doesn't think that the City Attorney should be checking the legal wording on his petition. He said that if Mr. Wilson wants to bring a petition before the voters, that is fine, but he (Mr. Wilson) has an obligation to make sure that the petition meets the legal requirements. He said that what he would like to see happen is that the City Attorney have less work load and not more work load. He does not want to see the City Attorney or the City Manager obstruct this. He said that if Mr. Wilson gets the required signatures from the voters then it is their job to put the referendum on the ballot.

Mr. J. Rock Tonkel stated that at the recent Special Call City Council meeting that was held, in reporting the results of the Enterprise Fund, the Finance Director said that the Electric Fund had a five million dollar surplus year to date and the available cash was twelve million dollars. He asked what would be the projection of both of those figures by year end. He asked staff if they could get that information to him. He continued by saying that it is apparent that there is going to be surplus and an enormous amount of valuable cash. He said that once he receives this information, he will comment on it in the future. He then mentioned that he has watched Mayor Sawnick for the last four months and he is surprised at some of his declarations and decisions. He felt that it was a huge mistake to allot a certain amount of time to the public who is speaking, as well as the City Councilmembers. He told the Mayor to think about the oath that he has taken and the constitution to the State of Florida.

Mr. Joseph Guffanti commented that he has been coming to the City Council meetings for about twenty years now and has observed the facial expressions of the City Council. He said that things have changed since Mr. Heady became a City Councilmember and he detects the face of fear on Council and it is a fear of getting caught. He said getting caught at what, he was not quite sure. The items pulled from the agenda this morning are

aimed at Mr. Heady's effort in coming to the truth on the electric contract. He said that this is an abomination on the part of the Mayor. Mr. Heady was elected by the people, as all of you have and he is representing the people.

Mr. Glen Heran said as they go forward this year and approach elections in November that people are going to have to take sides this year to either stay with the City or to go with selling the utilities. He has his own opinion on how the City Council will vote on that. However, he didn't know how Mr. Daige was going to vote. He asked Mr. Daige if FP&L presented them with an offer and he had this deal on the table what would he do? Would he stay with Vero Beach utilities or go with FP&L.

Mr. Daige felt that was not a yes or no question. All the options and facts need to be on the table so they can be presented to the ratepayers and City taxpayers.

Mr. Heady said that he could answer the question. He has seen the model and knows what \$150,000,000 would mean to this community. It would pay their bonds. However, before he voted yes to having FP&L take over their utilities he would want to make sure that they would be absorbing the present employees.

Mr. Heran felt that the employees would be picked up by FP&L.

Mr. White wanted to look at this from a business standpoint. He did not believe that FP&L intends to absorb all of the costs. He also mentioned that FP&L is going to get approval to raise their rates and that increase will probably be this year.

Mr. Heran said FP&L will offer a price such as the rates that are existing in the State of Florida and it will give them a rate of return on equity.

Mr. Charles Vitunac, City Attorney, asked Mr. Heran if he was an agent for FP&L today.

Mr. Heran stated that he was in no way financially connected with FP&L.

Mr. Vitunac then asked him if everything that he said today has been approved by FP&L.

Mr. Heran answered no.

Mayor Sawnick felt that the City was moving in the right direction and probably will be talking with FP&L in the future.

Mr. Heady commented on the questions that the City Attorney asked Mr. Heran. He said that he could care a less who comes to the podium and who they are an agent of. If someone comes to the podium and what they say makes sense, he will not make his decision as to who they are an agent for.

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

Mr. Heady pulled items 2D-2), 3), and 4), off of the consent agenda.

Mr. White pulled item 2D-1) off of the consent agenda.

Mr. Daige asked if they were going to address these items now or under City Manager's Matters. He was told that the items were going to be addressed at this time.

Mr. Heady felt that the appropriate way to handle items pulled from the consent agenda are to address them right after they are pulled.

Mr. Daige asked Mr. Vitunac when would be the appropriate time to do a written policy change on this matter.

Mayor Sawnick mentioned that he had this item to vote on under Old Business, but he pulled it off of the agenda because they did not have a full Council present for today's meeting.

Mr. Vitunac said that they could vote on it at their next meeting or they could vote on it at today's meeting.

Mayor Sawnick made a motion to adopt the consent agenda as amended. Mr. White seconded the motion and it passed unanimously.

Mr. Daige made a motion to consider the items pulled from the consent agenda at this time and to make this a formal policy for all future meetings. Mayor Sawnick seconded the motion.

Mr. Heady felt that rather than have the City Attorney do a whole lot of work, that Mr. Daige's motion is clear and that it will be in the minutes that this is the way they are operating their meetings. He felt that wasting legal time is wasting taxpayer's money.

The motion passed unanimously.

#### **1. Regular City Council Minutes – March 16, 2010**

Mr. White asked that on page 26 of the minutes that the word "not" be inserted and that the whole sentence will now read "He said that the only thing Ranger Construction is responsible for is for the damage that they do from A-1-A to the beach and not anything that happens on the roadway."

The minutes passed unanimously with this correction made.

#### **2. Rotary Nautical Flea Market**

Mr. Heady referred to the backup material where it stated that the President of the Rotary Club arranged interviews with the Council. He wanted to know if any of the other Councilmembers met with the Rotary Club on this issue.

Mr. Pomeroy, Rotary Club President, stated that he has not talked to any of the Councilmembers concerning this event.

Mr. Heady pointed out that this meets City policy and there always seems to be a concern about the length of their meetings. He asked if this meets City policy then why can't the City Manager just sign off on this.

Mr. Vitunac explained that beer and wine issues are always brought to the Council for permission.

Mr. Heady said that in the future if they give the City Manager approval to grant these permits without bringing them to the Council they could save some time. He asked the City Attorney if it would be appropriate to make that motion now.

Mr. Vitunac answered yes.

Mr. Heady made a motion that the City Manager take care of these items in the future.

Mr. Vitunac added that he would need to bring back a written policy on this and then they could vote on it at that time.

Mr. White commented that there is another item on the agenda that involves alcohol so maybe they should wait until after that item is heard.

Mr. Heady withdrew his motion.

Mr. White made a motion to approve the request. Mr. Daige seconded the motion and it passed unanimously.

**3. Final Payment Request – Substation #11 (South Beach) Rip Rap Wall – Custom Built Marine Construction, Inc.**

Mr. Heady commented that this is a \$5,000 payment and he did not see why it needed to come before Council. He said that the City Manager is allowed to authorize this final payment.

Mayor Sawnick could understand the point that Mr. Heady was making, but he felt that Council needed to be advised as to what is taking place.

Mr. Daige agreed with the comments just made by the Mayor. He said that the items don't need to be pulled from the consent agenda, but it is good for the Council to know

about these things because of budget purposes and he would prefer to keep it this way for them and the public.

Mr. Heady explained that the only way the public knows about it, is if the item is pulled off of the consent agenda.

Mr. Daige noted that all of the items that are on the agenda can be found on the City website and in the agenda package located in the lobby.

Mayor Sawnick made a motion to approve the final payment request. Mr. White seconded the motion and it passed unanimously.

#### **4. River Crossing – Emergency Purchase Order**

Mr. James Gabbard, City Manager, reported that this item was for an emergency purchase order costing approximately \$7,000.

Mr. Heady said that his comments were the same as he made earlier. He said it was necessary to make this expenditure so he does not feel that Council needed to have it on their agenda.

Mr. White said that what this does is make Council aware of what is going on.

Mr. Daige recalled that the City Manager has the authorization to spend up to \$50,000, but on items that have not been budgeted for he needs to let Council know that the money is being spent. He felt it was important for Council to know when money is being spent.

Mayor Sawnick made a motion to approve the River Crossing Emergency Purchase order. Mr. Daige seconded the motion and it passed unanimously.

At this time, Council took a break a ten-minute break and the meeting reconvened at 10:30 a.m.

### **3. PUBLIC HEARINGS**

- A) 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, 2009 and ending September 30, 2010, by decreasing the Water & Sewer Fund by \$888,642 from Revised Revenue and Transfer Estimates and by Decreasing the Water & Sewer R & R Fund by \$4,388,642 from Revised Proposed Borrowing, Transfer and Expenditure Estimates.**

Mayor Sawnick read the Ordinance by title only.

Mr. Steve Maillet, Finance Director, reported that this is the second and final hearing on this Ordinance. It includes all of the items that they (staff and City Council) recently discussed.

Mayor Sawnick opened and closed the public hearing at 10:34 a.m., with no one wishing to be heard.

Mr. Heady commented that recently there has been a lot of public concerns about the number of employees there are in the City. The Ordinance that they are discussing has taken staff time to prepare and since it is a deduction in the amount that a department head is going to spend it seems to him that they don't need to be discussing this.

Mr. Heady made a motion to approve the Ordinance. Mr. White seconded the motion and it passed 4-0 with Mr. Daige voting yes, Mr. Heady yes, Mr. White yes, and Mayor Sawnick 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 amending Chapter 2, Article VIII (Purchasing and Contracts) of the Code of Ordinances of the City of Vero Beach to replace Section 2-351(7), "Local Bidders," with a New Section 2-352, "Local Preference in Purchasing or Contracting," to provide for an expanded Local Preference Policy and Procedure for Local Businesses in City Purchases or Contracts; including Brevard, Indian River, Martin, Okeechobee, and St. Lucie Counties in the definition of "Local Business;" Providing for severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mayor Sawnick suggested adding Polk County and Osceola County to the Ordinance.

Mr. White asked if they do business with anyone from Polk County.

Mr. John O'Brien, Purchasing Manager, stated that they haven't tracked where their business comes from.

Mr. White thought that a local preference Ordinance was for local preference, but it doesn't say that they can't hire someone from one of these other counties.

Mr. O'Brien explained that this Ordinance reads that anyone that submits a bid to them would be given preference from any of the outlining areas. If their bid is within 5% and

anyone that is not local would have an opportunity to reduce their price down to the lowest bid. The Ordinance mentions Okeechobee and Brevard and he found that Brevard does not use the same criteria (5%) as they do and he was not sure about Okeechobee County. However the other counties mentioned are pretty much identical to Indian River County.

Mr. Daige would like to have the Ordinance before them adopted as it stands. He asked for full support of the Council in moving this forward. He said that this is the way that they can help their local businesses.

Mr. Daige made a motion to approve the Ordinance on first reading and that the public hearing be held on April 20, 2010. Mayor Sawnick seconded the motion.

Mr. Heady felt that the point that this was for the general contractor and not for the subcontractors was a pretty significant point because the general contractor can be nothing more than a broker. He said in the real sense, every bit of the work under this Ordinance could go somewhere else. He referred to the Ordinance and read some of the existing law that they were striking out and then adding five more pages of different things. He said once again this is just one more example where they add work for the City Attorney and spend more time at their meetings discussing something that they already have. He felt that what they have on their books now is fine; they just need to give clear direction to staff to consider local bidders.

The Clerk polled the Council on the motion and it passed 3-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, and Mayor Sawnick yes.

**B) An Ordinance of the City of Vero Beach, Florida, renumbering and amending Chapter 30, Alcoholic Beverages, of the Land Development Regulations of the City of Vero Beach, providing for restrictions as to the Location of Establishments dealing with or in Alcoholic Beverages; providing for exceptions; providing for consistency with Section 562.45(2) of Florida Statutes; Providing for Method of Measurement of separation distances from Schools and Places of Worship; providing for conflict and severability; and providing for an Effective Date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that this Ordinance amends Chapter 30, Alcoholic Beverages, as Section 60.16, General Provisions; makes the City's separation requirements from schools and places of worship and establishments licensed to sell alcoholic beverages consistent with Section 562.45(2), Florida Statutes and provides for a standard measurement of separation distances of establishments licensed under the Florida Beverage Law from schools and places of worship. He said that the Planning and Zoning Board held a public hearing to consider the Ordinance and unanimously recommended it be approved by the City Council.

Mr. White asked if they would be issuing any more liquor licenses.

Mr. McGarry explained that the licenses are issued by the State.

Mr. White had a couple of problems with this Ordinance. He referred to page 2, Section 60.16 (b) where it reads separation of licensed premises from schools and places of worship. No licensed premises shall be authorized by the Planning Director within 500 feet of any established place of worship, or public or private elementary, middle, or secondary school, with the following exceptions:.... He felt by doing this they would be losing the charm that they have in the City of Vero Beach.

Mr. McGarry made it clear that Florida Statutes already allows this and the intent of the Ordinance is for them to be in compliance with Florida Statutes.

Mr. White felt that instead of just having the Planning Director be able to give this authorization, he would rather make it so that it requires two people such as the Planning Director and the City Manager. He said no matter what happens, if staff makes a decision and people are not in favor of it the Council gets blamed.

Mr. Daige agreed with the comments made by Mr. White and felt that Council needs to be informed when authorization is given. He has some concerns with schools and said that they have home rule and they can take care of their City. He asked if this does pass, how will they regulate it if there are problems and how many people approached him for this change.

Mr. McGarry said that he had two or three people who talked to him about passing this Ordinance. He said that one of the places interested in having this change is a restaurant located on 14<sup>th</sup> Avenue, near the Freshmen Learning Center. They are not allowed to serve beer and wine because of the existing Ordinance, however the restaurants right across the street from them are allowed (because they are further away from the school).

Mr. McGarry made it clear that this Ordinance preempts home rule. He didn't have any problems with adding the City Manager's name and saying that no licensed premises shall be authorized by the Planning Director and City Manager within...

Mr. Vitunac suggested having the Chairman of the Planning and Zoning Board sign off on application.

Mr. Sawnick asked Mr. McGarry to provide them with a map showing the 500 feet radius.

Mr. Daige commented that with these restaurants that once they are open and they are licensed to serve beer and wine they are watched and controlled by Federal agencies.

Mr. McGarry told him that was correct.

Mr. White still had some problems with allowing alcohol to be served within a close distance of schools.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for May 4, 2010. He also wanted to talk with the School Board and find out how they feel about the Ordinance. Mr. White seconded the motion.

Mr. Heady commented that any laws that they pass in the State of Florida need to be in compliance with the constitution of the United States. Any laws that they pass in the City need to be in compliance with the constitution of the State of Florida. He said that the State law takes precedence and this brings them into compliance with State law. He thought that this was just another exercise in adding more work for staff and to the legal staff. He didn't know why this particular restaurant in question could not apply for a variance.

Mr. White asked if they could put a time limit saying that the restaurant would not be allowed to serve alcohol during school hours.

Mr. McGarry will find out what kind of restrictions that they can place. He also will add the City Manager's name for authorization and provide Council with the map.

The Clerk polled the Council on the motion and it passed 3-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, and Mayor Sawnick yes.

**C) An Ordinance of the City of Vero Beach, Florida, amending Chapter 73, Article II, Drainage and Article III, Stormwater Management of the City of Vero Beach Code; deleting existing Article II, Drainage and replacing it with New Article II, Stormwater Management; deleting existing Article III, Stormwater Management and replacing it with New Article III, Construction Site Erosion and Sediment Control; creating New Article IV, Municipal Separate Storm Sewer System; providing for requirements; standards and review procedures for Stormwater Management Plans for Single Family/Duplex, Nonresidential, Multiple Family, and New Subdivision Development; providing for Requirements, Standards, and Review Procedures for Erosion and Sediment Control Plans for Construction Activity; providing for Florida Department of Environmental Protection Generic Permits for Certain Land Disturbing Activities; providing for Regulations for Discharges to the Municipal Separate Storm Sewer System; providing for Conflict and Severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry reported that the Planning and Development Department, in conjunction with the Public Works staff, prepared this Ordinance. The Ordinance amends Chapter 73 by eliminating Article II, Drainage, and replacing it with a revised existing Article II, Stormwater Management; and creating a new Article III, Construction Site Erosion and

Sediment Control and Article IV, Municipal Separate Storm Sewer System. The Ordinance will bring the City's stormwater regulations in consistency with the water quality provisions of Policy 20.5 and 20.6 of the Drainage section of the Comprehensive Plan that requires the onsite retention or detention of the first inch of rainfall for new single family development. The Ordinance will require that all new or improved non-single family developments meet or exceed the minimum design standards required by St. John's Water Management District, it will revise the stormwater management plan and facilities, design requirements to make them more practical and cost effective and consistent with the St. Johns Water Management District design standards and policies of the Comprehensive Plan. The Ordinance also incorporates regulations managing erosion and sedimentation during construction and discharges to the City's municipal separate storm sewer system as required by the City's National Pollution Discharge Elimination System (NPDES).

Mr. Daige commented that Mr. McGarry made reference to the Engineering Department and working with area developers. He asked who the developers were that the Engineering Department worked with.

Mr. McGarry said that they did not mention any names. He said that this is for long term knowing that the City is going to have to deal with discharges from storm systems into the lagoon.

Mr. Heady expressed that this document is 23 pages and part of what it addresses is new single family residences and the City is 99% built out. He said that if they are really concerned with the discharge into the lagoon then they should stop dumping into the lagoon. He felt by adopting this Ordinance it just adds another layer of more government and more regulations. He would like to enact a law that states the only new law that can be enacted is one that says no new laws be enacted.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for May 4, 2010. Mr. White seconded the motion and it passed 3-1 with Mr. Daige voting yes, Mr. Heady no, Mr. White yes, and Mayor Sawnick yes.

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

### **A) Update on United Way Campaign**

Mrs. Vock informed Council that the City was recently recognized as one of the top ten workplace campaigns, as well as receiving an award as being a torchbearer once again this year.

### **B) Meeting with the School Board**

Mrs. Vock reported that the School Board would like to hold a joint meeting with the City Council on June 10<sup>th</sup> from 9:00 a.m. to 11:00 a.m. They would like this meeting to be very informal and do not plan on televising it.

Mr. Heady made a motion to request to the School Board that the meeting be televised. Mr. Daige seconded the motion. The motion passed 3-1 with Mr. White voting no.

### **C) Live Video Streaming**

Mrs. Vock explained that in researching the live video streaming she has presented Council with three different options. She also noted that the televising equipment will need to be replaced soon and she will be bringing this up at budget time in July. It would be her recommendation to hold off on the video streaming and discussing it along with replacing the equipment at budget time this July.

Mr. Heady felt that they could have the live video streaming done at a cost of about \$1,000.

Mrs. Vock said the cost she obtained was around \$1,800 which would not include a monthly fee.

Mr. Daige made a motion to hold off implementing the Live Video Streaming until after they have reviewed the bids received for replacing the television equipment at budget time this July. Mr. White seconded the motion. The motion passed 3-1 with Mr. Heady voting no.

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

### **A) Airport Obstruction Survey**

Mr. Eric Menger, Airport Director, presented Council with a presentation prepared by URS Corporation, the Airport's General Consultant, to present their findings from the FAA Part 77 Obstruction Survey. This is the same Power Point presentation that was presented to the Airport Commission (on file with the City Clerk's office).

Mr. Menger recommended that City Council review Phase 1 and authorize staff to proceed to Phase II of this project.

Mayor Sawnick asked Mr. Menger if they don't go forward with this, what would happen.

Mr. Menger explained that if there was an accident that the City could bear the liability. He said they are required by Federal regulations to keep their runways clear. They will be looking at each and every object. In many cases the trees can be trimmed and cut back and are good for ten years. The answer to his question is that they do have to do something.

Mr. White asked how they were going to handle property outside of the City (privately owned property).

Mr. Menger explained that they will handle each property on a one on one basis. If they end up with a situation where an Oak Tree has to be trimmed back or removed then they will make a plan for mitigation. There are some government powers that they would have to enforce if it became a safety issue.

Mr. Daige asked if ten feet was the minimum.

Mr. Menger said not necessarily. He said that it would have to be determined by an Arborist and City staff.

Mr. Daige asked in giving approval to move forward with Phase II, were they also giving the Airport permission to do the tree trimming.

Mr. Menger explained that they have hired an Engineer to proceed with Phase II. When they are ready to award a contract to a tree trimming contractor then they will come back to Council.

Mr. Daige felt that it was important for Council to be provided with a list of the number of trees that are being trimmed and having to be removed. He also wants to be informed if there are property owners who have problems with the removal of a tree from their property.

Mr. Menger explained that there will be areas that they recommend be clear cut. The recommendation would only be because there are no main specimen of trees in that area and it is more cost effective.

Mr. Heady made a motion to authorize staff to proceed with Phase II of the Airport Obstruction Survey. Mr. White seconded the motion and it passed unanimously.

**B) Award of Contract to Ranger Construction Industries to Rehabilitate Runway 11L/29R, Taxiway F and Connectors (Bid No. 440-09/CSS)**

Mr. Menger reported that this is a rehabilitation project that will improve the surface condition of the runway and taxiway system using a mix in place process in order to recycle the existing asphalt. The project is funded by State grants and Airport revenue. It was also approved in the Airport budget. He requested that the Award of Bid be given to the low bidder who is Ranger Construction in the amount of \$1,938,527.82. He said that most of the work will be done locally.

Mr. Heady made a motion to approve the Award of Bid 440-09/CSS for the Rehabilitation of Runway 11L/29R, Taxiway F and Connectors, to Ranger Construction Industries. Mr. White seconded the motion and it passed unanimously.

**8. CITY ATTORNEY'S MATTERS**

None

**9. CITY COUNCIL MATTERS**

**A. Old Business**

- 1. Councilmember's time allotment under his/her matters – Requested by Mayor Sawnick**
- 2. Items pulled from consent agenda – Requested by Mayor Sawnick**
- 3. Items on agenda under new business and old business – Requested by Mayor Sawnick**

These items were pulled off of the agenda and will be discussed at the next City Council meeting.

**B. New Business**

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

**A. Mayor Kevin Sawnick's Matters**

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

Mayor Sawnick reported that he met with Mainstreet Vero Beach, attended Legislative Action Day in Tallahassee, the Mayor's beach cleanup held at Humiston Park, and the Special Call Council meeting where they discussed the quarterly budget. Mayor Sawnick briefly went through some upcoming events.

Mayor Sawnick mentioned that they received a letter from a concerned citizen on the new route that Go Line busses are taking. He said that he also lives in that area and there are a lot of buses going through the neighborhood.

Mr. Gabbard mentioned that he has talked to the concerned neighbors as well as Karen Diegel at Senior Resources and they are looking at coming up with some different bus routes.

Mayor Sawnick did not feel that the City's website was as updated as it should be. He suggested that each Councilperson have their picture on the website along with a short bio.

Mayor Sawnick mentioned that the Beach Cleanup Committee would like permission to post their clean up dates on the web and maybe on Channel 13. He will bring this issue back to Council.

Mayor Sawnick reported that he spoke to one of their area residents, Ms. Hayes, who felt that they should be looking at having a quarterly newsletter printed to update the public on what the City is doing and plans on doing. He said that the newsletter could be emailed out to the people who would like to receive it.

Mayor Sawnick commented that in regards to Old Business, if Council has items that need to be voted on then the items should be either under New Business or Old Business. He explained that Council Matters is on the agenda to give them an opportunity to report on the meetings that they have attended. As far as limiting Councilmembers time, being a teacher himself, he wanted to make sure that Council is productive and all the main points have been stated. Other cities around the State have done this. He said that the ten minute rule that he is requesting was brought up by someone in the public. If Council decides not to implement it, it is their choice.

**3. Comments**

**B. Vice Mayor Sabin Abell's Matters**

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

**C. Councilmember Tom White's Matters**

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

Mr. White reported that he attended a Municipal Insurance meeting in Tampa and also the Special Call meeting where Council discussed the budget.

Mr. White also brought up Go Line buses and asked staff to look at the new stop that has been installed on Aviation Boulevard right past the light. He felt that was not a good location because of accidents.

**3. Comments**

**D. Councilmember Brain Heady's Matters**

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

Mr. Heady agreed with the Mayor that Channel 13 would be a good place for advertising (referring to the beach cleanup).

Mayor Sawnick wanted to make it clear that the beach cleanup was not a City function.

Mr. Heady told the Mayor that he didn't agree with placing time limits on people speaking. He said that if you put into place the three minute time limit then the person

speaking will use it up, which in most cases someone would not even speak for the entire three minutes. The Mayor mentioned that no Councilmember would be cut off and he told the Mayor that he cuts him off all the time. The Mayor also mentioned that the limitation of Councilmembers to ten minutes came from the public. He asked the Mayor to tell him what meeting that this occurred.

Mayor Sawnick said that the public talked to him about the ten minute limitation, but not at a Council meeting.

Mr. Heady made a motion that Councilmembers not be restricted on either the quantity or the time limits on their matters.

Mr. White reminded him that in order to vote on an item it needs to be done under Old Business.

Mr. Heady said it is a suggestion, but they don't have to have an item under Old Business in order to vote on something.

Mayor Sawnick reiterated that under Old Business and under New Business is where motions should be handled. However, at this point there is no policy in place.

The motion died for lack of a second.

Mr. Daige commented that as far as how they conduct their business under Council matters, he is in favor of allowing Councilmembers to speak and it is up to them to be mindful of the Council and taxpayer's time. As individuals they need to move through the agenda, conduct their business, and be aware of the time. He said that time is important. He is not interested in restricting any member on this Council.

Mr. Heady told Mr. Daige that if he was not in favor of any Councilmember being restricted then would he second his motion not to restrict Councilmembers.

Mr. Heady explained that one of the items that he added to his agenda was pain clinics. He thought that they should consider some restrictions of pain clinics within the City.

Mr. Gabbard agreed with Mr. Heady's comments on pain clinics. He said that staff has been discussing this and what they probably should do is something like what Stuart or Martin County has done and do a moratorium for six months. He said that the State of Florida is aware of the problems with these pain clinics and is working on it. He said that there is a pain clinic here in Vero Beach and if Council agrees, he would like to bring to them a draft moratorium for them to vote on.

Mr. Heady made a motion that they have a moratorium of six months for pain clinics until they see what the State does. Mr. Daige seconded the motion.

Mayor Sawnick commented that he knows what a pain clinic is, but there might be some Councilmember who does not, which is why providing backup material is so important.

Mr. Vitunac explained that they could not place a moratorium by quick action, (making a motion) it needs to be done by Ordinance.

Mayor Sawnick amended the motion to direct staff to prepare an Ordinance on the moratorium for pain clinics. Mr. Daige amended his second and the motion passed unanimously.

The next item that Mr. Heady added to his items was A-1-A sidewalks.

Mr. Heady reported that he was at a meeting with some residents who reside on the beach and they are concerned about some sidewalks that are being put in along A-1-A. Some of the residents have asked if he could write a letter to the State asking the State to have a meeting with the residents of A-1-A on this issue before they move forward. He was asking for Council's permission to send this letter. He made a motion that he be authorized to send this letter with Council approval. Mayor Sawnick seconded the motion.

Mayor Sawnick wanted to see more information on this.

Mr. Heady said that he could provide the names of who the letter needs to go to. What he would be asking the State for is instead of moving forward with this concept as it currently stands that the State meet with the residents of A-1-A because they feel that the real need is not to have a sidewalk on the other side of A-1-A, but to have turn lanes.

Mr. Vitunac said that if this is an MPO project, he might want to send the letter to them and have them get it to the correct people.

Mr. Daige asked if the portion that he was referring to is located in the City.

Mr. Heady answered yes. He then stated the name and address of where the letter needs to be sent.

Mayor Sawnick was still not sure what the problems were. He asked the City Manager to find out more information on the project and then they would go from there. He withdrew his second to the motion.

Mr. Daige seconded the motion for discussion. He suggested that a letter be put together and let Council look at it before it is mailed.

Mr. Heady did not have a problem doing that and said that he would give them a draft copy of the letter within the next couple of days. He feels that time is of the essence because this project is going forth. The residents who live in this area have asked to be given the opportunity to have a voice on what the State does on the road.

Mr. Daige had no problem with Mr. Heady writing the letter, but he wanted to see a copy of the draft before it is mailed. He asked the City Attorney since there is some time constraints with this, could the Clerk call and get a consensus from Council before the letter is mailed.

Mr. Vitunac did not prefer using that method. He would prefer bringing it back at a public meeting so that everyone could see the letter.

Mr. White asked their Public Work's Director to comment on this project.

Mr. Monte Falls, Public Work's Director, reported that this project is a resurfacing project and about 75% of the residents live in Indian River County and 25% reside in the City of Vero Beach. He recalled that a few meetings ago Council approved a maintenance agreement for some landscaping to go in this area. To his knowledge this did not include any roadway improvements other than resurfacing. He has not received any calls in objection to the project. The project calls for a sidewalk to be built on the east side of A-1-A.

Mayor Sawnick wanted to see that the letter to come from the whole Council.

Mr. White felt that the letter should come from the Mayor.

Mr. Daige wanted to see the letter first. In this particular case he did not have a problem with having it mailed if there were no objections from Council. In the future if something like this issue is brought up, he would like to have backup material.

Mayor Sawnick restated the motion, which is to allow Mr. Heady to prepare a letter to be given to City Council for a consensus. If there is not a consensus from Council then the letter is not to be mailed. The motion passed 3-1 with Mr. White voting no.

**A. FP&L Bid Original**

Mr. Heady mentioned that there was bid from FP&L when negotiations were taking place before OUC was approved as their power provider and he has a copy of it. It is the same type of issue as OUC (the original versus the copy). He asked the Attorney if it was possible for him to take home the original FP&L bid so that he can compare them side by side.

Mr. Vitunac told him that would not be possible.

**B. Progress of Internet connection for meetings**

Mr. Heady will get some additional information to the City Clerk concerning the internet connection.

**C. Still waiting for written answers from City Manager**

Mr. Heady was still waiting for the City Manager to put something in writing. He said that what he received from the City Manager was the transcript from the County meeting, which both of them attended and spoke.

**D. OUC Contract**

Mr. Heady referred to the OUC contract that they are operating under. He said that the City Manager and the City Attorney both made some comments about him having seen what he asked for and he would like to point out that what he asked for was the original document that was on the table for City Council to discuss and debate on April 7, 2008. He said that if the original document that was on the desk is the original document that is on file, then could he ask the City Manager and the City Attorney to both certify that it is in fact the original that was on the desk.

Mr. Vitunac said that the only one who could certify to that would be Sue Hersey. He said that she has certified it. Mr. Heady made a public records request for that certification.

**E. 50MM penalty**

Mr. Heady asked both Mr. White and Mr. Daige if they were aware that the OUC contract has a \$50,000,000 penalty clause in it.

Mr. White said that he was told about it.

Mr. Heady then asked him if he was aware of the built-in increases that are in the contract.

Mr. White answered yes. He said that there are built-in increases in every contract, including the one that they had with FMPA.

Mr. Heady asked Mr. Daige the same questions that he asked Mr. White.

Mayor Sawnick did not feel that it was fair for Mr. Heady to be asking these questions when Council did not know that they would be asked these questions. He suggested to Mr. Heady that he put the questions in writing. He also said that it would be more productive if he would provide backup material on his items.

Mr. Daige requested that they move forward.

**F. November Elections**

Mr. Heady commented that the November elections are coming up and everyone on this Council, except for him, is up for reelection. He thought that an appropriate use of the

television (Channel 13) would be to have a debate on both sides of the referendum issue. He said what was interesting was that he was being asked to put his questions in writing, but he has not been able to get the City Manager to put his questions in writing.

Mr. White excused himself from the meeting at 12:28 p.m.

**G) Debate on Sale of Electric**

**H) 8/12/08**

Mr. Heady stated that at the August 12, 2008 County Commission meeting, the City Manager made a presentation to the County Commission on the value of the Power Plant. One of the things that he has been trying to do is establish in his own mind what the value of the Plant is and he has had a hard time as far as the financial documents identifying that value. Someone brought this meeting to his attention and said that the City Manager was putting value on the Plant. He thinks having this information would be helpful to the Council and to the citizens. He said especially if the referendum goes through and in order for him to make an informed decision he needs to know what the value of the Plant is. The City Manager at that time valued the Plant at being 300,000,000 and this is good information for them to have. The City Manager mentioned at that meeting evaluations that he had. Mr. Heady made a public records request for all evaluations made to support the August 12, 2008 meeting. The other item that the City Manager brought up was the whole debate about the electric issue and the concern that the City Manager had was that debates cause bonding companies to get nervous. He told the County Commission at that meeting that one of the bonding companies called the bonds that they had and asked that the bonds be paid off in full. He was not aware of this, but the video was clear as to what happened. He has since made a public records request and he received nothing back. He asked the City Manager if he could tell them what bonds were called and paid off.

Mr. Gabbard told Mr. Heady that as usual he comes to a meeting with these issues and he (Mr. Gabbard) has no idea what he is talking about. He will review the video and will do his best to answer the Council's inquiries. If there is a public document then he will get it to Mr. Heady.

Mr. Heady requested that the showing of this video be put back on the agenda for their next meeting and hopefully it will work.

**I) Limiting effectiveness of Council Members**

Mr. Heady mentioned that their meetings would be more effective if the Mayor didn't interrupt so much.

**J) Direction City Manager selection process**

Mr. Heady felt that there needed to be some debate and discussion about the replacement of the Finance Director.

Mr. Heady also mentioned that Mr. Abell recently talked to him about effectiveness of Councilmembers and he appreciated the comments that he made to him at that time. It was an honest effort to help him understand the rules and how things happen around here. Mr. Abell told him that he should go and talk to staff members before Council meetings if he has questions. He appreciated Mr. Abell's willingness to help him. He said that it is not that he does not understand some of the rules it is just that he has a very different opinion on how he feels that public business should be done. He feels that public business needs to be done in the public eye. He said that when he looks through the agenda package and has questions about different things he can only assume that when the public is looking at the agenda they have the same questions. He said when he pulls things off of the consent agenda it is his effort in trying to make sure that public business is done in the public eye.

**E. Councilmember Ken Daige's Matters**

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

Mr. Daige went through his Committee Reports (please see attached).

- 3. Comments**

**11. ADJOURNMENT**

Mayor Sawnick made a motion to adjourn today's meeting at 12:43 p.m. Mr. Daige seconded the motion and it passed unanimously.

/tv

**SUBJECT TO CHANGE**

**AGENDA**

**CITY MANAGER'S OFFICE**

**APRIL 6, 2010**

**Consent Agenda**

1. Regular City Council Minutes – March 16, 2010
2. Rotary Nautical Flea Market
3. Final Payment Request – Substation #11 (South Beach) Rip Rap Wall – Custom Built Marine Construction, Inc.
4. River Crossing – Emergency Purchase Order

**City Manager's Matters**

- A) Airport Obstruction Survey
- B) Award of Contract to Ranger Construction Industries to Rehabilitate Runway 11L/29R, Taxiway F and Connectors (Bid No. 440-09/CSS)

**COUNCIL AGENDA REPORT**  
**MEETING OF APRIL 6, 2010**

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** James M. Gabbard, City Manager

**DATE:** March 25, 2010

**SUBJECT: ROTARY NAUTICAL FLEA MARKET**

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Attached is a letter from William E. Pomeroy, President of the Rotary Club of Vero Beach, requesting permission for a "Secure Beer and Wine Tent" at the Rotary Nautical Flea Market, which is planned for November 6 and 7, 2010, at Riverside Park.

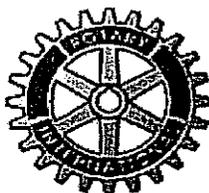
**It is the recommendation of the City Manager's Office that Council approve the above-referenced request.**

  
James M. Gabbard

JMG:jav  
Attachments

xc: Rob Slezak  
Monte Falls  
Don Dappen

N:\AGENDA\CITYMANAGER\2010\ROTARY NAUTICAL FLEA MARKET.DOC



## THE ROTARY CLUB OF VERO BEACH

875 Island Club Lane, Vero Beach, Fl 32963

1-772-633-3936

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Mr. James M. Gabbard  
City Manager, The City of Vero Beach  
City Hall  
P.O. Box 1389  
Vero Beach, Florida 32961

March 5, 2010

Reference: Rotary Nautical Flea Market

Dear Jim,

Rita, in the City Clerk's office instructed me to send you this letter relative to the Rotary Nautical Bazaar we are planning for the weekend of November 6 and 7th, 2010.

Rob and Pat at Parks and Rec. have been a tremendous help in pulling me along and advising me what procedures must be followed in order to obtain approval for our event. I thank you for getting me started in the right direction!

I have attached a copy of our application for the event.

My purpose in writing is to secure an audience with the City Council relative to the "Secure Beer and Wine Tent" that we would like to have in conjunction with the event, together with any other required Council approvals.

Would you please arrange an interview with the Council at which time I will present the nature and purpose of the event.

Any and all advice and guidance from your office would be much appreciated. We hope to raise significant funds for local charities, while bringing lots of folks to Vero for shopping and dining.

Thanks so much for you help, Jim.

William E. Pomeroy, President  
The Rotary Club of Vero Beach

To C.M.	Called App.	To Guards	Notified	Paid	Special Notes
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## APPLICATION AND FORMAL REQUEST TO HOLD A PUBLIC EVENT ON RIVERSIDE PARK GROUNDS

*Original applications need to be submitted at least 90 days before the proposed event.* Submit applications to 1725 17<sup>th</sup> Avenue, Vero Beach, Florida, Monday thru Friday, 9:00am to 5:00 pm. Once your request is reviewed, you may be contacted by a Recreation staff member who will be happy to go over your event information and inform you of any additional requirements, fees, or limitations.

Today's Date: 20 January 2010

Name of Organization: Vero Beach Rotary

Website address: http://www.rotaryclubofverobeach.com

Profit  Non-Profit (Please attach a copy of your State of Florida Certificate of Exemption)

Name of Event: Rotary Nautical Bazaar (This is a tentative working name and may be changed.)

Type of Event: Charitable Fund Raiser

Do you feel the Event has civic or cultural value? (Describe) This event will raise funds for local charities. It will have cultural value in that nautical art will be a part of the program.

Expected number of people attending the Event: 2,000 (This is a rough estimate as this is our first year.)

Proposed Activities: We will have vendor booths, food venues, a secured beer tent, and music performances.

Proposed Date(s) November 6 & 7 Set-up time: Friday November 5

November 6, 8 am – 5 pm Event time: November 7, 8 am – 3 pm

April 18 Clean-up time: 3 pm – 7 pm

Event Hours for Attendees and Spectators: See Event Time above

Area of Use:  The Oaks Area (\$300.00 damage deposit required)  
 Unimproved Area (\$300.00 damage deposit required)  
 Other Area(s): \_\_\_\_\_

Utilities:  Electric needed  Water needed

Please CHECK ONLY ONE of the following that applies to the physical location of your group or organization:  
 City of Vero Beach  Indian River County  Outside of Indian River County

Special Requests: \_\_\_\_\_

## APPLICATION TO HOLD A PUBLIC EVENT ON RIVERSIDE PARK GROUNDS (pg. 2)

This form is intended to gather information about your event in order to insure that all necessary requirements are met, and city departments are working in concert with you for the success of your event.

Please check off all that apply to your event:

(See information following form)

Amplified Sound

Stage

Live Music

Bleachers

Cooking

Tents

Food vending

Bounce House

Other Vending

Other \_\_\_\_\_

Port-o-lets

Other \_\_\_\_\_

Street use – must get approval from the Vero Beach Police Department before submitting this form to the Recreation Department.

Other Needs:

Electric with access key

Water with access key

Rest Rooms after hours (after 8:30 p.m. and before 7:00 a.m.)

Signs (for permit and sign information please call Planning & Development at 978-4550.)

Police (if needed, please call Vero Beach Police Department for rates at 978-4600.)

Dumpster (if needed please call Solid Waste for rates at 978-5300.)

Barricades (if needed please call Public Works for rates at 978-4870.)

Park Adjustments

Gates opened

Other: \_\_\_\_\_

Other: \_\_\_\_\_

Signature of Requestor: \_\_\_\_\_

This application (pages 1-4) should be completed and the *original* returned to the Recreation Department located at 1725 17<sup>th</sup> Avenue, Vero Beach, Florida *with a \$300.00 damage deposit and a copy of your tax exemption certificate*, if applicable, no later than 90 days prior to the proposed event. The application will be sent to the City Manager's office for review and approval. If your request is approved, you will be required to submit a certificate of liability insurance covering the event with the City of Vero Beach named as an Additional Insured, along with a copy of the policy. Approximately 45-60 days before the event, an Event Committee meeting will be held with your representative(s) and City officials to ensure all requirements are met, and for coordination with the city. For questions, please call the Director of the Recreation Department at 567-2144.

*Once approved, please have a copy of this paperwork with you at your event.  
If you encounter any problems during your event please call our Supervisor on Duty at 538-1397,  
Recreation Director Rob Slezak at 538-1298, or Vero Beach Police non-emergency at 978-4600.*

**City of Vero Beach  
Recreation Department**

1725 17<sup>th</sup> Avenue  
Vero Beach, FL 32960  
(772) 567-2144 fax :(772) 778-7496 [www.covb.org](http://www.covb.org)

**REQUEST FOR THE USE OF RIVERSIDE PARK GROUNDS**  
*(Please submit original to above address.)*

The undersigned, on his/her own behalf or as authorized agent of Vero Beach Rotary  
hereinafter "Applicant," respectfully  
requests the use of the Riverside Park grounds from November 6, 2009 thru November 7, 2009.

1. The use of Riverside Park grounds must be approved by the City Manager in advance of the scheduled event.
2. If preparation time is required for the event, this time should be included with the overall request for the use of this facility to avoid any schedule conflicts.
3. If liability insurance has been obtained or is provided as a part of a national or regional organizational structure, the applicant shall notify the policyholder and the City regarding this area. Additionally, depending upon the nature of the requested use, the City may require the applicant to have insurance.
4. There will be no modifications authorized on the Riverside Park grounds unless specifically authorized by the City Council or City Manager. The City Manager may approve temporary installations of additional facilities. The City Council, however, must approve any permanent additions to the area. This specific approval must be obtained in writing. There will be no digging, underground installations, tents or temporary building installations, or pruning of foliage without prior specific permissions of the City Manager or his designee. Again, this authorization must be obtained in writing in advance of any action on the part of the applicant. Any work to be accomplished by skilled tradesmen, such as electrical or plumbing, must be reviewed in advance by the City Building Department. If any permits are required, the applicant is to obtain the requisite permits and follow up with appropriate inspections before its event.
5. Electrical service is provided at central locations on the grounds in the Oaks Area of the park. However, specific arrangements must be made during a weekday in advance of the scheduled activity for use of this service. Applicant must appropriately protect all extension cords that are run from the outlets provided to prevent falls or other injuries by visitors or other users.
6. Central potable water service is available in the Oaks Area of the park from a central water meter. Specific arrangements must be made during a weekday in advance of the scheduled activity. Two additional spigots have been located strategically on the property for the use of the applicant.
7. A solid waste dumpster can be obtained for a fee from the Solid Waste Department (978-5300) by arranging for this service at least one week in advance of the date of the event. The applicant can determine the container size and the appropriate container will be placed at a location that is convenient to both the Solid Waste Department and the applicant.
8. The applicant shall be responsible for the complete cleanup of the area after the event. This cleanup will include all foreign matter that has been transported to the area by the applicant, its guests, or other spectators. The parking area is to be specifically included in the cleanup process. All refuse will be placed in authorized receptacles or completely removed from the Riverside Park grounds. A Damage Deposit of \$300.00 per event for the use of Riverside Park Areas must be submitted to the City of Vero Beach with this application to ensure proper and timely cleanup. Failure to cleanup within 24 hours after the cessation of the event shall be cause of forfeiture of the deposit to pay for the cleanup of the grounds by City crews.
9. Special security is available for a fee from the Vero Beach Police Department (978-4600.) Specific arrangements must be made at least 30 days in advance of the event to have an officer on site to monitor the event.
10. The applicant is fully responsible for the actions of all members and guests associated with this event and for ensuring compliance with all laws and ordinances that are in effect for this area.
11. No alcoholic beverages may be consumed on this property at any time.
12. The applicant must answer the questions in the application form in order to obtain approval to use the grounds. This application should be submitted to the attention of the Recreation office 90 days prior to the event.

The undersigned certifies that he/she has read and understands the foregoing. Further, the applicant certifies he/she is authorized to obligate the organization or group he/she represents in making this request and ensuring compliance with these rules. The applicant hereby agrees to protect, indemnify, defend, save, and hold harmless the City of Vero Beach, Florida, from all claims, demands, liabilities, any suits of any nature whatsoever arising out of, because of, or due to this license, or due to any act or occurrence of omission or commission of the applicant, its agents or employees. A Damage Deposit of \$300.00 accompanies this request.

Signed: \_\_\_\_\_

Print: William E. Pomeroy

Address: 875 Island Club Lane, Vero Beach, FL 32963

Position: President

Telephone #: 1-772-633-3936 E-mail: wepom@aol.com

Name of Organization: Vero Beach Rotary

Website address: http://www.rotaryclubofverobeach.com

Address of Organization: PO Box 7330, Vero Beach, FL 32961

Address of Organization: \_\_\_\_\_

Phone number (and contact person) for the public to call \_\_\_\_\_

DATES CHECKED BY THE RECREATION DEPT. \_\_\_\_\_

APPROVAL BY SPECIAL EVENTS COMM. \_\_\_\_\_

Date: 3/9/10

Date: \_\_\_\_\_

APPROVAL BY CITY MANAGER: \_\_\_\_\_

Date: \_\_\_\_\_

*If you encounter any problems during your use of this location please call our Supervisor on Duty at 538-1397, Recreation Director Rob Slezak at 538-1298, or the Vero Beach Police Department non-emergency number at 978-4600.*

# NOTICE

**COUNCIL AGENDA REPORT**  
**MEETING OF APRIL 6, 2010**

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** James M. Gabbard, City Manager

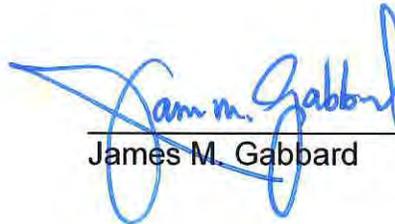
**DATE:** March 25, 2010

**SUBJECT: FINAL PAYMENT REQUEST – SUBSTATION #11 (SOUTH BEACH)  
RIP RAP WALL - CUSTOM BUILT MARINE CONSTRUCTION, INC.**

---

Attached please find a memorandum from Randall McCamish, dated March 9, 2010, which requests final payment for the above-referenced item.

**It is the recommendation of the City Manager's Office that Council approve final payment to Custom Built Marine Construction, Inc., for the Substation #11 (South Beach) Rip Rap Wall, in the amount of \$5,000.00. Funding will be from Account No. 403.5400.531.606361.**

  
\_\_\_\_\_  
James M. Gabbard

JMG:jav  
Attachments

xc: Randall McCamish  
John Lee  
Stephen Maillet

N:\AGENDA\TD\2010\SUB 11 RIP RAP WALL FP.DOC



## DEPARTMENTAL CORRESPONDENCE

**TO:** James Gabbard, City Manager

**FROM:** Randall McCamish, Director Electric T & D 

**THROUGH:** John Lee, Acting Electric Utility Director 576 - 3/19/2010

**DATE:** March 19, 2010

**SUBJECT:** Request for Council Approval

---

I am requesting that the following item be placed on the agenda for approval at the April 6, 2010, City Council meeting.

- Substation #11 (South Beach) Rip Rap Wall, Bid #190-09/PJW  
Custom Built Marine Construction, Inc. - \$5,000.00 Final Payment

Justification – This project was approved at the July 21, 2009 City Council meeting for a cost of \$75,000.00. The project has been completed to the satisfaction of City personnel and consultants. This project was budgeted and will be charged to account #404.5400.531.606361.

Cc: Phyllis Walton, Purchasing  
File



## DEPARTMENTAL CORRESPONDENCE

**TO:** James Gabbard, City Manager  
**FROM:** Randall McCamish, Director Electric T & D  
**THROUGH:** R.B. Sloan, Electric Utility Director  
**DATE:** June 24, 2009  
**SUBJECT:** Request for Council Approval

---

I am requesting that the following item be placed on the agenda for approval at the July 21, 2009 City Council meeting.

- Substation #11 (South Beach) Rip Rap Wall, Bid #190-09/PJW  
Custom Built Marine Construction, Inc. - \$ 75,000.00 Lump Sum Bid

Justification – This Substation is located on the barrier island and sits on the bank of the Indian River lagoon. The 2004 hurricanes washed away the bank on the west side of the substation and undermined the fence. The Rip Rap wall is needed to secure the integrity of the substation so that future storm events do not cause further damage. All of the environmental paperwork and permits have been completed. The bids were scrutinized by our consultants and the low bidder meets the requirements. This project was budgeted and will be charged to account #403.5400.531.606361.

Cc: Phyllis Walton, Purchasing

## MEMORANDUM

**TO:** Rob Bolton, Joe DeMarzo, Monte Falls, Stephen Maillet, Randall McCamish, Tim McGarry, Ericson Menger, Bill Messersmith, R.B. Sloan, and Jim Stevens

**FROM:** James M. Gabbard, City Manager

**DATE:** July 22, 2009

**SUBJECT:** COUNCIL ACTION – MEETING OF JULY 21, 2009

---

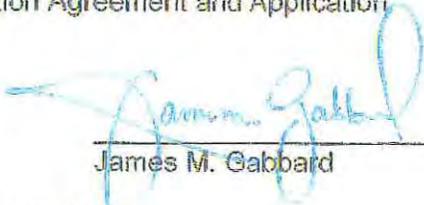
During the City Council Meeting of July 21, 2009, the following items were approved unless otherwise noted:

### 2.D) Consent Agenda

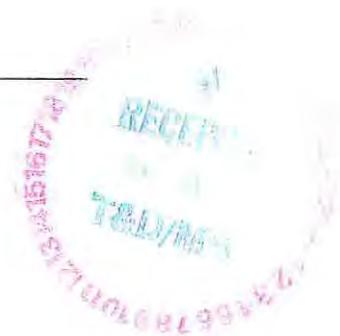
1. Regular City Council Minutes – June 16, 2009
2. Special Call City Council Minutes – June 1, 2009
3. Special Call City Council Minutes – June 22, 2009
4. Request for Final Payment – 69/13.8 kV Distribution Transformers for Substation #8 – Delta Star, Inc.
5. Solid Waste Franchise Agreement – Circle H. Citrus dba All Haul
6. Renewal of Solid Waste Franchise Agreement – Waste Management, Inc., of Florida
7. Award of Bid No. 460-08/JO - Professional Continuing Services Contracts
8. Award of Bid No. 190-09/PJW - Substation #11 Rip Rap Wall
9. Award of Bid No. 200-09/CSS - Roof Restoration at 3120 Aviation Boulevard (Airport)
10. Monthly Capital Projects' Status Reports
11. Request from the Tree and Beautification Commission to spend funds from their account for additional Tree City USA Signs
12. Purchase of Power Delivery Meters

### 7. City Manager's Matters

- A) Royal Palm Sidewalk Project – This item was tabled.
- B) Vision Implementation Plan Program Update
- C) Briefing on Proposed Amtrak Rail Service
- D) Discussion of GoLine Transportation System
- E) First Addendum to Amended and Re-stated Commercial Lease Agreement between the City of Vero Beach and Capcan, Inc., a/k/a CJ Cannons Restaurant
- F) Award of Bid No. 150-09/JV – Water Treatment Maintenance Building and Field Services Complex
- G) St. Johns River Water Management District Cost Share Agreement
- H) Standard Interconnection Agreement and Application

  
\_\_\_\_\_  
James M. Gabbard

N:\AGENDA.AFTER\CITYMGR\2009\JULY21.DOCX



**COPY**



# Stanley Consultants INC.

A Stanley Group Company  
Engineering, Environmental and Construction Services - Worldwide

March 17, 2010

Ms. Phyllis Walton  
City of Vero Beach  
3455 Airport West Drive  
Vero Beach, FL 32961

**Subject: Review of Custom Built Marine Construction, Inc. - Invoice No. 634  
Bid No. 190-09-PW  
Riprap Retaining Wall at Electric Substation #11  
Vero Beach, Florida**

Dear Ms. Walton:

On March 15, 2010 a representative from Stanley Consultants, Inc. met with Paul Ferger, from the City of Vero Beach to assess the condition of the landscaping that was installed for the subject project. The plants were found to be in overall good condition and appeared to be thriving.

We have reviewed attached Invoice No. 634 (Final Invoice) from Custom Built Marine Construction, Inc. and to the best of our knowledge we agree that it is accurate and we recommend payment. If you have any questions, please call the Project Manager, Paul Walansky at 561-584-8724.

Sincerely,

**Stanley Consultants Inc.**

Paul Walansky, P.E.  
Project Manager

Enclosures:

Attachment 1 – Custom Built Marine Construction, Inc. - Invoice No. 634



Custom Built Marine Construction, Inc.

1321 SE Decker Avenue  
 Stuart, FL 34994

# Invoice

DATE	INVOICE NO.
2/15/2010	634

<b>BILL TO</b>
Stanley Consultants, Inc. 1641 Worthington Road, Ste 400 West Palm Beach, FL 33409 Attn: Paul T. Walansky, P.E.

**RECEIVED**  
 FEB 17 2010  
 STANLEY CONSULTANTS, INC.

TERMS	REP

ITEM	DESCRIPTION	SALE PRICE	AMOUNT DUE NOW
284 713	Construction Rip Rap Retaining Wall Payment Retainage	75000.	5,000.00
  <b>COPY</b>			
		<b>Total</b>	\$5,000.00

TO OWNER: Stanley Consultants Inc PROJECT: # 11 Rip Rap Wall  
 1641 Worthington Rd #400  
 West Palm Beach Fl 33409  
 AHN ~~Bar~~ T. Welansky PE  
 FROM CONTRACTOR: VIA ARCHITECT:  
Custom Built Marine Const Inc  
 1321 SE Decker Ave  
 CONTRACT FOR: Stuart Fl 34994

APPLICATION NO.: 4 Distribution to:  
 PERIOD TO: 2/15/10  OWNER  
 PROJECT NOS.: 190-09/Pm  ARCHITECT  
 CONTRACT DATE: 8/25/09  CONTRACTOR  
 # 1473

**CONTRACTOR'S APPLICATION FOR PAYMENT**

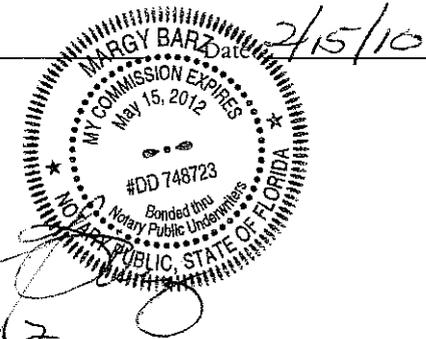
Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

- 1. ORIGINAL CONTRACT SUM ..... \$ 75,000.00
- 2. Net change by Change Orders ..... \$ 0
- 3. CONTRACT SUM TO DATE (Line 1 ± 2) ..... \$ 75,000.00
- 4. TOTAL COMPLETED & STORED TO DATE ..... \$ 75,000.00  
 (Column G on G703)
- 5. RETAINAGE:
  - a. \_\_\_\_\_% of Completed Work ..... \$ 5,000.00  
 (Columns D + E on G703)
  - b. \_\_\_\_\_% of Stored Material ..... \$ \_\_\_\_\_  
 (Column F on G703)
  - Total Retainage (Line 5a + 5b or Total in Column I of G703) ..... \$ \_\_\_\_\_
- 6. TOTAL EARNED LESS RETAINAGE ..... \$ 70,000.00  
 (Line 4 less Line 5 Total)
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT  
 (Line 6 from prior Certificate) ..... \$ \_\_\_\_\_
- 8. CURRENT PAYMENT DUE ..... \$ 5,000.00
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE  
 (Line 3 less Line 6) ..... \$ 0

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: \_\_\_\_\_  
 By: \_\_\_\_\_  
 State of: FLORIDA  
 County of: MARTIN  
 Subscribed and sworn to before me this 15<sup>th</sup> day of Feb 2010  
 Notary Public: \_\_\_\_\_  
 My Commission expires: 5-15-12



**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ \_\_\_\_\_

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.



Custom Built Marine Construction, Inc. 1321 SE Decker Avenue, Stuart, FL 34994				Application NO:	4				
Stanley Consultants, Inc.				Application Date:	Feb. 15, 2010				
1641 Worthington Road, Ste. 400				Period To:	Feb. 15, 2010				
West Palm Beach, FL 33409				Project No:	#11 Rip Rap Wall				
Attn: Paul T. Walansky, P.E.									
Item No.	Description of Work	Scheduled Value	Work Completed Previous Application (E+G)	Completed This Period	Materials Presently Stored (not in E,G)	Total Completed and Stored (E+G+I)	% (G / J. C)	Balance To Finish (C - G)	Retainage
	Mobilization	11000	11000			11000	100	0	100
	Clear and Grub	16000	16000			16000	100	0	100
	Rip Rap Installation	41000	41000			41000	100	0	4100
	Plantings and Sod	7000	7000			7000	100	0	700
		75000	75000	0		75000		0	5000

CITY OF VERO BEACH ELECTRIC TRANSMISSION & DISTRIBUTION DEPARTMENT

WAIVER AND RELEASE OF ALL CLAIMS UPON FINAL PAYMENT

Project: 190-09 / Pm  
Date of Contract: 8/25/09

Project No. \_\_\_\_\_  
Contract No. 1473

The undersigned contractor for the above-referenced contract, in consideration of final payment in the sum of \$ 5000.00, the receipt and sufficiency of which is acknowledged, hereby waives and releases any and all claims and right to make any claim for any and all labor, services, materials, and equipment furnished to the City of Vero Beach ("City") and arising under or by virtue of the above-referenced contract and changes thereto and hereby agrees to indemnify and hold harmless the City from any and all claims of any subcontractor having an interest in the contract. The term "subcontractor," as used herein, shall include any and all persons and firms furnishing labor, materials, services, or equipment incorporated into or supplied for the work under the contract, stockpiled for the project, or arising under any equipment-rental agreements.

This waiver and release of all claims is executed by the contractor for itself and its representatives, assigns and successors and covers all past and existing claims for work under the contract. In executing this waiver and release of all claims, I represent and certify to the City that I possess the authority and capacity to execute this waiver and release of all claims for the contractor, its representatives, assigns and successors, and to thereby bind them, and I agree to personally indemnify and hold harmless the City from any and all liabilities and costs, including attorney's fees, as may be imposed upon or incurred by the City because of any defect in or lack of my authority or legal capacity to execute this waiver and release of all claims for the contractor, its representatives, assigns and successors.

Custom Built Marine Const Inc  
Contractor

By: [Signature]  
Print Name: DAVID H CORRIGAN SR  
Title: President

STATE OF FLORIDA  
COUNTY OF MARTIN

Sworn to and subscribed before me this 15 day of Feb, 2010, by David H Corrigan Sr, who X is personally known to me OR \_\_\_\_\_ produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public  
Print Name: MARGY BARZ  
My Commission Expires: 5-15-12



**COUNCIL AGENDA REPORT**  
**MEETING OF APRIL 6, 2010**

**TO:** The Honorable Mayor and Members of the City Council

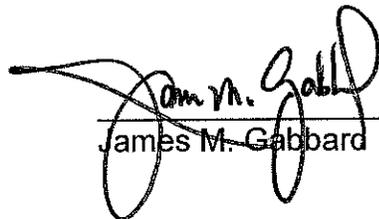
**FROM:** James M. Gabbard, City Manager

**DATE:** March 29, 2010

**SUBJECT: RIVER CROSSING – EMERGENCY PURCHASE ORDER**

---

Please find an attached memorandum from Randall McCamish regarding a damaged fiber optic/static line that crosses the Indian River Lagoon. The line must be repaired immediately, and I have authorized the work to proceed. The project will be less than \$10,000.00. Please review Mr. McCamish's memorandum for additional details. I will bring this matter to the attention of the City Council at the next regularly scheduled meeting.

  
\_\_\_\_\_  
James M. Gabbard

JMG:jav  
Attachment

xc: Randall McCamish  
John Lee  
Stephen Maillet

N:\AGENDA\TD\2010\RIVER CROSSOING EMERGENCY PO.DOC



## DEPARTMENTAL CORRESPONDENCE

**TO:** James Gabbard, City Manager

**FROM:** Randall McCamish, Director Electric T & D *RM*

**THROUGH:** John Lee, Acting Electric Utility Director *576 - 3/29/2010*

**DATE:** March 29, 2010

**SUBJECT:** River Crossing - Emergency Purchase Order

---

I need to make you aware of a situation that requires immediate attention. We recently discovered that the Fiber Optic/Static line that crosses the Indian River Lagoon on the south end of our system has become disconnected and is lying on the insulator of the 69,000 volt power line. We are not equipped to climb the 90 foot concrete pole so I have asked another utility to assist us. I have a contract prepared for your signature. The pole can only be reached by boat so I have also arranged to have a contractor transport the workers and equipment to the pole. I will be sending this additional contract through via a requisition in the next day or two. The total cost of the project should be less than \$ 10,000.00 and will be charged to overhead line maintenance, account # 401.5400.531.352041.

*OK legal.  
CPV  
3.29.10*

3- (A)

**ORDINANCE NO. 2010-\_\_\_\_\_**

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, 2009 AND ENDING SEPTEMBER 30, 2010, BY DECREASING THE WATER & SEWER FUND BY \$888,642 FROM REVISED REVENUE AND TRANSFER ESTIMATES AND BY DECREASING THE WATER & SEWER R & R FUND BY \$4,388,642 FROM REVISED PROPOSED BORROWING, TRANSFER AND EXPENDITURE ESTIMATES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA,  
THAT:

**SECTION I**

The proper officers of the City of Vero Beach are hereby authorized and directed to prepare revisions to the Budget of the City of Vero Beach for the twelve month period beginning October 1, 2009, and ending September 30, 2010. The Budget so revised will be adjusted to reflect changes in the line items affected with the indicated effect on the total Budget and on the source of such funds. These revisions and resulting revised Budgets are set forth in Attachment "A."

**SECTION II**

The revised Budget for the City of Vero Beach for the twelve month period beginning October 1, 2009, and ending September 30, 2010 as set forth in Attachment "A" of this Ordinance is hereby and herewith adopted.

**SECTION III**

Each established unexpended fund balance at the end of the Budget period is established as a contingency or emergency fund for the fiscal period. No contingency item shall be encumbered, expended, or any contract entered into to expend the same except in the manner provided by law.

**SECTION IV**

This Ordinance was read for the first time on the \_\_\_\_ day of \_\_\_\_\_, 2010, and was advertised in the Vero Beach Press Journal on the \_\_\_\_ day of \_\_\_\_\_, 2010, as being scheduled for a public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Vice Mayor Sabin C. Abell, Jr.</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Brian T. Heady</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Kenneth L. Daige</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**ATTEST:**

**CITY OF VERO BEACH, FLORIDA**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

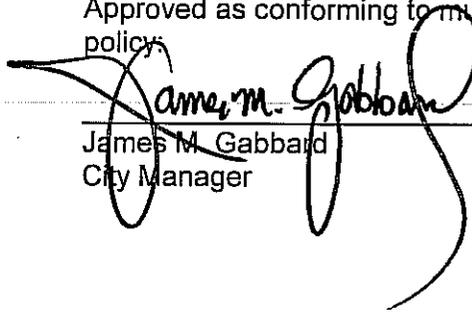
\_\_\_\_\_  
Kevin Sawnick  
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal  
policies:

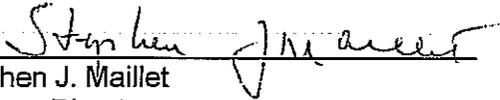


\_\_\_\_\_  
Charles P. Vitunac  
City Attorney



\_\_\_\_\_  
James M. Gabbard  
City Manager

Approved as to technical requirements:



\_\_\_\_\_  
Stephen J. Maillet  
Finance Director

This instrument prepared in the  
Office of the City Attorney  
PO Box 1389  
Vero Beach, FL 32961-1389

ATTACHMENT A  
 CITY OF VERO BEACH, FLORIDA  
 BUDGET REVISIONS FOR FISCAL YEAR 2009-2010  
 MARCH 2010

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
<b>WATER AND SEWER FUND</b>					
<b>WATER AND SEWER FUND--REVENUES</b>					
421. 0000. 389. 000200	CASH CARRY OVER	(888,642)	(48,421)	(938,063)	
N/A	ALL OTHERS	0	17,573,287	17,573,287	17,523,866
		0			
	<b>TOTAL</b>	<u>(888,642)</u>	<u>17,523,866</u>	<u>16,635,224</u>	
		1	1	1	
<b>WATER AND SEWER FUND--EXPENDITURES</b>					
<b>WASTEWATER TREATMENT</b>					
N/A	ALL OTHERS	0	1,796,385	1,796,385	1,796,385
		<u>0</u>	<u>1,796,385</u>	<u>1,796,385</u>	
<b>GRAVITY SEWER</b>					
N/A	ALL OTHERS	0	516,410	516,410	516,410
		<u>0</u>	<u>516,410</u>	<u>516,410</u>	
<b>WATER TREATMENT PLANT</b>					
N/A	ALL OTHERS	0	3,209,774	3,209,774	3,209,774
		<u>0</u>	<u>3,209,774</u>	<u>3,209,774</u>	
<b>WATER DISTRIBUTION</b>					
N/A	ALL OTHERS	0	958,904	958,904	958,904
		<u>0</u>	<u>958,904</u>	<u>958,904</u>	
<b>WASTEWATER REUSE</b>					
N/A	ALL OTHERS	0	618,000	618,000	618,000
		<u>0</u>	<u>618,000</u>	<u>618,000</u>	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
ADMINISTRATION N/A	ALL OTHERS	0	1,057,863	1,057,863	1,057,863
		<u>0</u>	<u>1,057,863</u>	<u>1,057,863</u>	
ENVIRONMENTAL LABORATORY N/A	ALL OTHERS	0	489,455	489,455	489,455
		<u>0</u>	<u>489,455</u>	<u>489,455</u>	
MAINTENANCE DIVISION N/A	ALL OTHERS	0	707,748	707,748	707,748
		<u>0</u>	<u>707,748</u>	<u>707,748</u>	
LIFT STATION DIVISION N/A	ALL OTHERS	0	565,924	565,924	565,924
		<u>0</u>	<u>565,924</u>	<u>565,924</u>	
METER SHOP DIVISION N/A	ALL OTHERS	0	550,184	550,184	550,184
		<u>0</u>	<u>550,184</u>	<u>550,184</u>	
NON DEPARTMENTAL					
421. 9900. 536. 991007	TRF TO W&S R&R FUND	(888,642)	3,085,400	2,196,758	
N/A	ALL OTHERS	0	3,967,819	3,967,819	7,053,219
		<u>(888,642)</u>	<u>7,053,219</u>	<u>6,164,577</u>	
	TOTAL	<u>(888,642)</u>	<u>17,523,866</u>	<u>16,635,224</u>	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
<b>WATER &amp; SEWER R&amp;R FUND</b>					
<b>WATER &amp; SEWER R&amp;R FUND--REVENUES</b>					
423. 0000. 382. 000300	W/S REV FUND CONT	(888,642)	3,085,400	2,196,758	
423. 0000. 384. 001000	PROPOSED BORROWING	(3,500,000)	3,500,000	0	
N/A	ALL OTHERS	0	225,500	225,500	6,810,900
<b>TOTAL</b>		<b>(4,388,642)</b>	<b>6,810,900</b>	<b>2,422,258</b>	
		1	1	1	
<b>WATER &amp; SEWER R&amp;R FUND--EXPENDITURES</b>					
<b>WASTEWATER TREATMENT 9000</b>					
423. 9000. 536. 610397	SECURITY CAMERA SYSTEM	(20,000)	20,000	0	
423. 9000. 536. 663380	HEADWORKS REPAIR	(700,000)	700,000	0	
N/A	ALL OTHERS	0	112,000	112,000	832,000
		<b>(720,000)</b>	<b>832,000</b>	<b>112,000</b>	
<b>GRAVITY SEWER 9001</b>					
423. 9001. 536. 610395	SKID LOADER	(40,000)	40,000	0	
423. 9001. 536. 671360	AVIATION BLVD SEWER RELOCATION	(100,000)	250,000	150,000	
423. 9001. 536. 671361	GRAVITY SEWER REHABILITATION	(150,000)	150,000	0	
423. 9001. 536. 672360	FORCE MAIN NETWORK FOR WTP	(50,000)	50,000	0	
423. 9001. 536. 673360	26TH ST & 43RD AVE SEWER RELOCATION	(50,000)	50,000	0	
423. 9001. 536. 673361	43RD AVE SEWER RELOCATION	(100,000)	100,000	0	
N/A	ALL OTHERS	0	49,500	49,500	689,500
		<b>(490,000)</b>	<b>689,500</b>	<b>199,500</b>	
<b>WATER TREATMENT 9002</b>					
423. 9002. 536. 610340	SECURITY SYSTEM	(20,000)	20,000	0	
423. 9002. 536. 660320	RO MEMBRANE REPLACEMENT	(250,000)	250,000	0	
423. 9002. 536. 661307	RO WELLFIELD PIPING	(350,000)	350,000	0	
423. 9002. 536. 661320	RO TREATMENT PLANT EXPANSION	(900,000)	900,000	0	
423. 9002. 536. 662307	SURFICIAL WELL REPLACEMENT	(50,000)	50,000	0	
423. 9002. 536. 662320	RO CONTROL SYSTEM UPGRADE	(100,000)	100,000	0	
423. 9002. 536. 663320	ODOR CONTROL EXPANSION	(500,000)	500,000	0	
N/A	ALL OTHERS	0	817,500	817,500	2,987,500
		<b>(2,170,000)</b>	<b>2,987,500</b>	<b>817,500</b>	
<b>WATER DISTRIBUTION 9003</b>					
423. 9003. 536. 611331	LINE & SERVICE REPLACEMENT	(250,000)	650,000	400,000	
423. 9003. 536. 611343	TRAFFIC SAFETY SOLAR ARROW BOARD	(5,000)	5,000	0	
423. 9003. 536. 621331	43RD AVE WATER MAIN REPLACEMENT	(250,000)	250,000	0	
423. 9003. 536. 626331	AVIATION BLVD WATER MAIN RELOCATION	(200,000)	500,000	300,000	
423. 9003. 536. 627331	26TH ST & 43RD AVE WATER MAIN	(50,000)	50,000	0	
N/A	ALL OTHERS	0	5,500	5,500	1,460,500
		<b>(755,000)</b>	<b>1,460,500</b>	<b>705,500</b>	
<b>WASTEWATER REUSE 9004</b>					
N/A	ALL OTHERS	0	250,000	250,000	250,000
		<b>0</b>	<b>250,000</b>	<b>250,000</b>	

ACCOUNT NUMBER	ACCOUNT TITLE	BUDGET REVISIONS	CURRENT BUDGET	REVISED BUDGET	
<b>ADMINISTRATION 9005</b>					
N/A	ALL OTHERS	0	1,000	1,000	1,000
		<u>0</u>	<u>1,000</u>	<u>1,000</u>	
<b>ENVIRONMENTAL LABORATORY 9006</b>					
423. 9006. 536. 612344	LABORATORY GLASSWARE WASHER	(1,642)	8,900	7,258	
N/A	ALL OTHERS	0	39,000	39,000	47,900
		<u>(1,642)</u>	<u>47,900</u>	<u>46,258</u>	
<b>FACILITY MAINTENANCE DIVISION 9007</b>					
N/A	ALL OTHERS	0	6,100	6,100	6,100
		<u>0</u>	<u>6,100</u>	<u>6,100</u>	
<b>LIFT STATION DIVISION 9008</b>					
423. 9008. 536. 608361	LIFT STATION PUMP REPLACEMENT	(40,000)	60,000	20,000	
423. 9008. 536. 614371	LIFT STATION #3 AVIATION BLVD	(75,000)	250,000	175,000	
423. 9008. 536. 668361	ELECTRIC PANEL REPLACEMENT	(81,000)	81,000	0	
N/A	ALL OTHERS	0	0	0	391,000
		<u>(196,000)</u>	<u>391,000</u>	<u>195,000</u>	
<b>METER MAINT DIVISION 9009</b>					
423. 9009. 536. 608334	WATER DISTRIBUTION METERS	(16,000)	76,000	60,000	
423. 9009. 536. 609334	WATER PLANT AND WELLFIELD METERS	(25,000)	36,200	11,200	
423. 9009. 536. 610334	WASTEWATER PLANT METERS	(5,000)	15,000	10,000	
423. 9009. 536. 611334	REUSE METERS	(10,000)	16,200	6,200	
N/A	ALL OTHERS	0	2,000	2,000	145,400
		<u>(56,000)</u>	<u>145,400</u>	<u>89,400</u>	
<b>TOTAL</b>		<u>(4,388,642)</u>	<u>6,810,900</u>	<u>2,422,258</u>	

5-A)

**DEPARTMENTAL CORRESPONDENCE**

**TO:** Jim Gabbard, City Manager  
**THROUGH:** Charlie Vitunac, City Attorney  
**FROM:** John O'Brien, Manager of Purchasing and Warehouse Operations *JOB*  
**SUBJECT: LOCAL PREFERENCE ORDINANCE**  
**DATE:** March 23, 2010

Per Council directive, attached for First Reading at the April 6<sup>th</sup>, 2010 City Council meeting is a proposed "Local Preference in Purchasing or Contracting Ordinance." The proposed ordinance is based upon the Indian River County Local Preference ordinance with changes reflecting City purchasing procedures and practices.

ORDINANCE NO. 2010- \_\_

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VIII (PURCHASING AND CONTRACTS) OF THE CODE OF ORDINANCES OF THE CITY OF VERO BEACH TO REPLACE SECTION 2-351(7), "LOCAL BIDDERS," WITH A NEW SECTION 2-352, "LOCAL PREFERENCE IN PURCHASING OR CONTRACTING," TO PROVIDE FOR AN EXPANDED LOCAL PREFERENCE POLICY AND PROCEDURE FOR LOCAL BUSINESSES IN CITY PURCHASES OR CONTRACTS; INCLUDING BREVARD, INDIAN RIVER, MARTIN, OKEECHOBEE, AND ST. LUCIE COUNTIES IN THE DEFINITION OF "LOCAL BUSINESS;" PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Vero Beach, Florida, has adopted a Purchasing and Contracts Ordinance, codified in Chapter 2, Article VIII of the Code; and

**WHEREAS**, the City Council desires to amend the Purchasing and Contracts Ordinance to include a local preference policy and procedure to provide locally-owned and operated companies preference in City of Vero Beach procurement, as set forth herein; and

**WHEREAS**, the City Council finds that policies that encourage local business and the hiring of local residents as employees help strengthen the local economy; and

**WHEREAS**, the City Council determines that it is in the best economic interests of the City's residents and businesses to return funds to the local economy, while ensuring fair competition and securing competitive pricing for purchasing and contracting;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA THAT:**

**Section 1 – Amendment of Chapter 2, Article VIII, Division 2, Purchasing Procedure.**

Chapter 2, Article VIII, Division 2, Purchasing Procedure, is hereby amended to delete paragraph 7 of Section 2-351, Bidding Procedures, and to create a new section 2-352, Local Preference in Purchasing or Contracting, to read as follows:

## Chapter 2, Article VIII, Division 2, Section 2-351, Bidding Procedures

### Section 2-351. Bidding Procedures:

~~(7) Local bidders. Local bidders may be accorded a preference by the city council if it deems it in the public interest. The city manager shall have this same authority with respect to bids for contracts under \$50,000.00.~~

### Section 2-352. Local Preference in Purchasing or Contracting.

#### A. Definitions.

(1) “Local business” shall mean a business that meets all of the following criteria:

(a) Has had a staffed and fixed office or distribution point with a verifiable street address, located within Brevard, Indian River, Martin, Okeechobee, or St. Lucie Counties for at least one (1) full calendar year immediately prior to the issuance of the request for competitive bids or request for proposals by the City. Post office boxes shall not be used or considered for the purpose of establishing a physical address; and

(b) Has had, for at least 12 months immediately prior to the date of the advertisement for the particular good or service being solicited, a current “Local Business Tax Receipt” issued by the City of Vero Beach, Brevard, Indian River, Martin, Okeechobee, or St. Lucie Counties, if applicable; and

(c) Holds any license or competency card required by Indian River County, if applicable, and;

(d) If the contract is awarded, will be the person or entity in direct privity of contract with the City of Vero Beach and not as subcontractor, or any lower-tier subcontractor, materialman, or supplier.

(2) “Non-local business” means a bidder that is not a local business, as defined herein.

#### B. Certification.

Any person or entity claiming to be a local business, as defined herein, and desiring to receive local preference, shall complete and submit, together with all required attachments, a “Local Business Certification Form,” in the form provided by the City and contained within the bid package accompanying a public notice/advertisement. Any bidder who fails to complete and submit the “Local Business Certification Form” together with all required attachments with the bid shall not be

granted local preference consideration for the purposes of that specific contract award. The Purchasing Division shall determine if a person or entity meets the definition of a "local business."

C. Local preference in purchases by means of formal competitive bid.

In connection with any solicitation to which this Ordinance applies, local preference may be given to local businesses in the following manner:

1. When a qualified and responsive, non-local business submits the lowest price bid (herein, "Apparent Low Bidder"), and the bid submitted by one or more qualified and responsive local businesses is equal to or within five percent (5%) of the price submitted by the Apparent Low Bidder, then the local business with the apparent next-lowest qualified and responsive bid offer (herein, the "Lowest Local Bidder") shall have the opportunity to submit an offer to match the price(s) offered by the Apparent Low Bidder as follows:

(a) The Purchasing Division shall invite, in writing, by e-mail, fax, or certified mail, the Lowest Local Bidder to submit a written matching offer to the Purchasing Division (herein "Invitation");

(b) The Lowest Local Bidder may, but shall not be obligated to, submit a written, faxed or e-mailed matching offer to the Purchasing Department within five (5) business days after receipt of the Invitation;

(c) If the Lowest Local Bidder submits a written offer that matches the bid from the Apparent Low Bidder, such written offer shall be accepted and the Lowest Local Bidder shall be awarded the contract;

(d) If the Lowest Local Bidder submits a written offer that does not match the bid from the Apparent Low Bidder, such written offer shall be rejected; and

(e) Thereupon, the next successive lowest qualified and responsive local bidder, if and only if its bid is less than or within five percent (5%) of the Apparent Low Bidder, will receive the Invitation.

(f) This cycle shall be repeated until there are no remaining local bidders less than or within five percent (5%), then the award shall be made to the Apparent Low Bidder

2. If the Lowest Local Bidder and successive next lowest local bidders do not respond, decline, or are unable to match the Apparent Low Bidder bid price(s), then the award will be made to the Apparent Low Bidder.

D. Notice.

All solicitations that are subject to this Ordinance shall include the substance of this local preference Ordinance and the "Local Business Certification Form".

E. Exclusions and limitations.

1. Waiver of local preference.

The application of this Ordinance to a particular purchase or contract of the City of Vero Beach may be waived only prior to bid solicitation/advertisement and with the approval of the City Council.

2. The provisions of this Ordinance shall not apply where prohibited by federal law or Florida law, or under the conditions of any grant or other funding source.

3. The provisions of this Ordinance shall not apply to contracts under the Consultants Competitive Negotiation Act (CCNA), Florida Statutes Section 287.055, as CCNA allows consideration of location in the evaluative process.

4. The provisions of this Ordinance shall not apply to any procurement where the local nature of a business has been addressed through scoring criteria.

5. The Purchasing Division shall be responsible for developing, implementing, and maintaining administrative procedures in support of this policy.

E. Subsequent review and sunset provision.

On or about six months after the Effective Date of this Ordinance, the Purchasing Division will provide the City Council with the results to date of this local preference policy and the status of regional reciprocity for Indian River County businesses by Brevard, Martin, Okeechobee, and St. Lucie Counties. Within one year after the first bid awarded under this policy, the City Council shall receive a similar report from the Purchasing Division and shall determine whether to continue or modify this policy. Nothing in this section shall prevent the City Council from taking action sooner to revise or remove this local preference policy.

**Section 2. Conflict and severability.** In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this article is held to be invalid, unconstitutional, or unenforceable for any reason by a

court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this article, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

**Section 3. Effective Date.** This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the \_\_\_ day of \_\_\_\_\_, 2010, and was advertised in the Vero Beach Press Journal on the \_\_\_ day of \_\_\_\_\_, 2010, as being scheduled for a public hearing to be held on the \_\_\_ day of \_\_\_\_\_, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Vice Mayor Sabin C. Abell</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Brian T. Heady</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Kenneth L. Daige</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**ATTEST:**

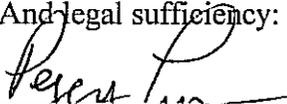
**CITY OF VERO BEACH, FLORIDA**

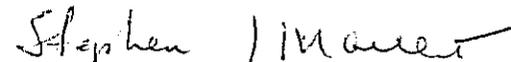
\_\_\_\_\_  
Tammy K. Vock  
City Clerk

\_\_\_\_\_  
Kevin Sawnick  
Mayor

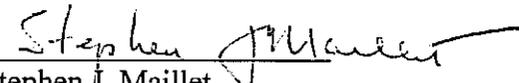
Approved as to form  
And legal sufficiency:

Approved as conforming to  
municipal policy:

*fm*  
  
\_\_\_\_\_  
Charles P. Vifunac  
City Attorney

  
\_\_\_\_\_  
James M. Gabbard  
for City Manager  
03/25/10

Approved as to technical  
requirements:

  
\_\_\_\_\_  
Stephen J. Maillet  
Finance Director

5-B)

## DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager

FROM: Timothy J. McGarry, AICP   
Director of Planning and Development

DATE: March 24, 2010

SUBJECT: **First Reading on Ordinance to Renumber and Amend Chapter 30,  
Alcoholic Beverages, as Section 60.16 of the Land Development Regulations**

### **Request**

The Planning and Development Department staff requests that the attached draft ordinance be placed on the City Council's April 6<sup>th</sup> regularly scheduled meeting for First Reading.

### **Overview**

The proposed attached draft ordinance renumbers and amends Chapter 30, Alcoholic Beverages, as Section 60.16 of Chapter 60, General Provisions; makes the City's separation requirements from schools and places of worship and establishments licensed to sell alcoholic beverages consistent with Section 562.45(2), Florida Statutes (F.S.); and provides for a standard measurement of separation distances of establishments licensed under the Florida Beverage Law from schools and places of worship.

### **Planning and Zoning Board Action**

The Planning and Zoning Board conducted a public hearing to consider the draft ordinance on March 18, 2010. It was unanimously recommended for approval by the City Council.

### **Background**

The staff has received several inquiries from local entrepreneurs about opening restaurants at various locations within the City. However, the City's existing regulations don't allow restaurants licensed under the Florida Beverage Law to sell and serve alcoholic beverages for consumption on the premises to be within 500 feet of any school or place of worship, which has created an impediment to new restaurant development in commercial areas. This problem is further complicated by the fact that new churches are locating within commercial centers, creating further impediments for new restaurants being established in those areas.

### **Analysis**

In response to these inquiries, the staff conducted a review of the Florida Statutes. Except for certain exempted licensees under the Florida Beverage Law, Section 562.45(2)(a), F.S.,

specifically requires a 500 foot separation between schools and the on-site consumption of alcoholic beverages. A copy of Section 562.45, F.S., is attached, which lists the exemptions from the separation requirements.

Local governments are authorized to enact ordinances regulating the hours of business and location of place of business, including requiring more stringent separation requirements, such as the separation requirements for places of worship. Where the statutes specifically exempt certain licensed permit holders from separation requirements from schools, then the municipality must follow these restrictions. Section 562.45, F.S. does provide enabling authority for local governments to override the State's separation requirements from schools for establishments that allow the on-premises consumption of alcohol, if the local governing body, after conducting two public hearings, approves by ordinance the location of an establishment as "promoting the public health, safety, and general welfare of the community."

The City's regulations are more stringent than the Florida Statutes. These regulations prohibit no licensed premises within 500 feet of a school or place of worship, regardless of whether or not alcohol is consumed on-premises. The only exceptions are licensed premises limited to the sale of malt beverages and wine for consumption off the premises and temporary permits issued to not-for-profit civic organizations under the Florida Beverage Law.

In comparing the City's regulations with the Florida Statutes, the staff found that the existing regulations are not entirely consistent with Section 562.45(2)(a), F.S., as they do not make an exception for restaurants from the 500 foot separation requirement, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages. Additionally, the measurement of the separation distance between schools and licensed premises in the City's regulations are not consistent with the Florida Statutes that require the distance to be measured from the licensed premises to the nearest point of the real property containing the school. The existing regulations require the measurement to follow the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the proposed licensed premises to nearest point of the school grounds in use as part of the school facilities.

### **Findings and Conclusions**

Based on its review, the staff finds that at minimum the existing regulations regarding separation requirements and their measurement should be revised to be consistent with the Florida Statutes by incorporating the exemption requirements for restaurants which derive at least 51 percent their gross revenues from the sale of food and nonalcoholic beverages and revising the protocol for measuring the separation distances. The provisions regarding the separation from places of worship and protocol for this distance measurement should be made consistent with those for schools to avoid administrative issues in application of these regulations and unequal treatment of the two sensitive uses to be protected, places of worship and schools.

Additionally, it would be preferable to renumber and amend Chapter 30 as Section 60.16 under the Land Development Regulations, which is a more appropriate location for these land

development regulations. The regulation of alcoholic beverages are addressed under Part II, Chapter 6, Alcoholic Beverages, of the City Code of Ordinances, which was recently enacted as a comprehensive revision of the City's alcoholic beverage regulations.

The staff concludes that the proposed revisions will make the City's regulations consistent with State law and will remove unnecessary barriers to the development of restaurants in appropriate locations within the City limits without increasing the potential for undesirable impacts on schools and places of worship.

### **Recommendation**

The staff recommends that the City Council approve the draft ordinance for advertising and public hearing on May 4, 2010.

TJM/tf  
Attachments

Select Year:

## The 2009 Florida Statutes

Title XXXIV  
ALCOHOLIC BEVERAGES AND  
TOBACCO

Chapter 562  
BEVERAGE LAW:  
ENFORCEMENT

View Entire  
Chapter

### **562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring nondiscriminatory treatment; providing exceptions.--**

(1) Any person willfully and knowingly making any false entries in any records required under the Beverage Law or willfully violating any of the provisions of the Beverage Law, concerning the excise tax herein provided for shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. It is unlawful for any person to violate any provision of the Beverage Law, and any provision of the Beverage Law for which no penalty has been provided shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, that any person who shall have been convicted of a violation of any provision of the Beverage Law and shall thereafter be convicted of a further violation of the Beverage Law, shall, upon conviction of said further offense, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Nothing contained in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(4), for counties, and s. 166.041(3)(c), for municipalities. This restriction shall not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. 561.422. The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

(b) Nothing in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the type of entertainment and conduct permitted in any establishment licensed under the Beverage Law to sell alcoholic beverages for consumption on the premises, or any bottle club licensed under s. 561.14, which is located within such

county or municipality.

(c) A county or municipality may not enact any ordinance that regulates or prohibits those activities or business transactions of a licensee regulated by the Division of Alcoholic Beverages and Tobacco under the Beverage Law. Except as otherwise provided in the Beverage Law, a local government, when enacting ordinances designed to promote and protect the general health, safety, and welfare of the public, shall treat a licensee in a nondiscriminatory manner and in a manner that is consistent with the manner of treatment of any other lawful business transacted in this state. Nothing in this section shall be construed to affect or impair the enactment or enforcement by a county or municipality of any zoning, land development or comprehensive plan regulation or other ordinance authorized under ss. 1, 2, and 5, Art. VIII of the State Constitution.

**History.**--s. 15, ch. 16774, 1935; s. 3, ch. 19301, 1939; CGL 1940 Supp. 4151(240), 7648(6); s. 4, ch. 29964, 1955; s. 1, ch. 57-327; s. 573, ch. 71-136; s. 2, ch. 72-230; s. 1, ch. 87-365; s. 24, ch. 91-60; s. 4, ch. 97-165; s. 2, ch. 99-156.

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ORDINANCE NO. 2010 - \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, RENUMBERING AND AMENDING CHAPTER 30, ALCOHOLIC BEVERAGES, OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF VERO BEACH; PROVIDING FOR RESTRICTIONS AS TO LOCATION OF ESTABLISHMENTS DEALING WITH OR IN ALCOHOLIC BEVERAGES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CONSISTENCY WITH SECTION 562.45(2) OF FLORIDA STATUTES; PROVIDING FOR METHOD OF MEASUREMENT OF SEPARATION DISTANCES FROM SCHOOLS AND PLACES OF WORSHIP; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and

**WHEREAS**, within the above-referenced grant of powers, the City of Vero Beach (the “City”) has the authority to and does regulate the location of establishments dealing with or in alcoholic beverages and provide separation distances from certain protected uses, such as schools and places of worship, for the protection of the public health, safety, and welfare; and

**WHEREAS**, Chapter 30, Alcoholic Beverages, of the Land Development Regulations of the City, which regulates the separation of establishments dealing with or in alcoholic beverages licensed under the Florida Beverage Law from schools and places of worship, requires amendment for consistency with the exemption and measurement of the separation distance for schools provided by Section 562.45(2) of Florida Statutes; and

**WHEREAS**, it is appropriate at the same time to renumber and move the aforementioned Chapter 30, Alcoholic Beverages, to the more appropriate general zoning provisions of the Zoning Ordinance of the City,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF VERO BEACH, FLORIDA, THAT:**

Section 1 – Renumbering and Amendment of Chapter 30, “Alcoholic Beverages.”

Chapter 30, “Alcoholic Beverages,” in Title III, “Police Power Ordinances,” of Part III, “Land Development Regulations,” is hereby re-numbered as Section 60.16 in Chapter 60, “General Provisions” of Title VI, the Zoning Ordinance of the City of Vero Beach, and is amended to read as follows:

**~~CHAPTER 30. ALCOHOLIC BEVERAGES~~**

**~~Sec. 30.05. Restriction on location of licensed premises.~~**

~~In addition to the general zoning requirements, no licensed premises shall be authorized within 500 feet of any school or church; provided, however, that these additional restrictions shall not apply to licensed premises that are limited to the sale of malt beverages and wine for consumption off the premises only and to temporary permits issued to nonprofit civic organizations under “The Beverage Law” of the state. The 500-foot restriction shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the proposed licensed premises to the main entrance of the church, and in the case of a school, to the nearest point of the school grounds in use as part of the school facilities.~~

**Sec. 60.16. Restriction on location of establishments dealing with or in alcoholic beverages.**

(a) Definitions. Relevant definitions in section 6-2 of the Code of Ordinances and the Florida Beverage Law shall apply and are incorporated herein as the context permits.

(b) Separation of licensed premises from schools and places of worship. No licensed premises shall be authorized by the planning director within 500 feet of any established place of worship, or public or private elementary, middle, or secondary school, with the following exceptions:

- (1) Premises licensed on or before July 1, 1999;
- (2) Restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages;
- (3) Establishments licensed for the sale of beer or wine for consumption off the premises only; or
- (4) Not-for-profit organizations operating under a temporary permit issued by the Division of Alcoholic Beverages and Tobacco of the Florida

Department of Business and Professional Regulation under the Florida Beverage Law.

(c) Measurement of separation from schools and places of worship. The separation distance of 500 feet shall be measured in a straight line from the main entrance of the building containing the licensed premises to the nearest point of the real property containing a place of worship or school facilities.

Section 2. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3 - Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

\*\*\*\*\*

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

This Ordinance was read for the first time on the \_\_\_\_\_ day of \_\_\_\_\_ 2010, and was advertised in the Indian River Press Journal on the \_\_\_\_\_ day of \_\_\_\_\_ 2010, as being scheduled for a public hearing to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 2010, at the conclusion of which hearing it was moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Vice Mayor Sabin C. Abell</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Brian Heady</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Kenneth J. Daige</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**ATTEST:**

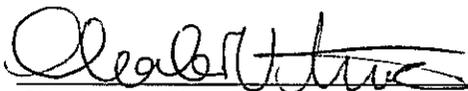
**CITY OF VERO BEACH, FLORIDA**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

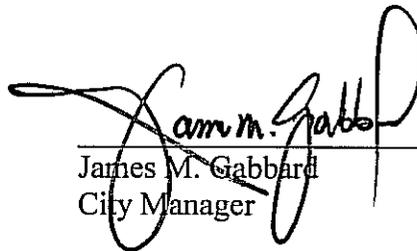
\_\_\_\_\_  
Kevin Sawnick  
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

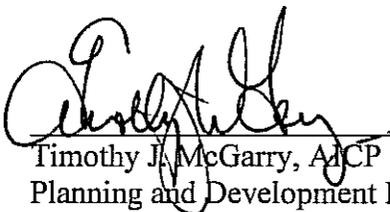


Charles P. Vitunac  
City Attorney



James M. Gabbard  
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP  
Planning and Development Director

**DEPARTMENTAL CORRESPONDENCE**

TO: James M. Gabbard, City Manager

FROM: Timothy J. McGarry, AICP  
Director of Planning and Development 

DATE: March 24, 2010

SUBJECT: **First Reading on Stormwater Management Ordinance**

**Request**

The Planning and Development Department staff requests that the attached draft ordinance be placed on the City Council's April 6<sup>th</sup> regularly scheduled meeting for First Reading.

**Overview**

The Planning and Development Department staff, in conjunction with the Public Works staff, has prepared a draft ordinance amending Chapter 73, Flood Damage and Prevention, City Code. The proposed ordinance amends this Chapter by eliminating Article II, Drainage, and replacing it with a comprehensively revised existing Article II, Stormwater Management; and creating new Article III, Construction Site Erosion and Sediment Control and Article IV, Municipal Separate Storm Sewer System.

**Planning and Zoning Board Action**

The draft ordinance was discussed with the Planning and Zoning Board at a workshop held on October 1, 2009. Revisions were made to the initial draft based upon the comments of the Board and further review by the City Attorney's office and Planning and Development and Public Works staffs.

The Planning and Zoning Board conducted a public hearing to consider the drafted ordinance on March 18, 2010. It was unanimously recommended for approval by the City Council.

Subsequent to the public hearing, a couple of minor, non-substantive changes were made by staff to further clarify the text of the draft ordinance.

**Objectives**

The Planning and Development and Public Works staffs identified the following objectives that needed to be accomplished with the Ordinance:

- o Bring the City's stormwater regulations into consistency with the water quality provisions of Policy 20.5 and 20.6 of the Drainage Subelement of the Comprehensive Plan that requires, at a minimum, the onsite retention or detention of the first inch of rainfall for new single family development;
- o Require that all new or substantially improved non-single family development meet or exceed the minimum design standards required by St. Johns Water Management District, including onsite retention or detention of the first 1.5 inches of rainfall, even if the project is not subject to the District's regulations.
- o Revise the stormwater management plan and facilities design requirements to make them more practical and cost-effective, consistent with the St. Johns Water Management District design standards and relevant policies of the Comprehensive Plan.
- o Incorporate regulations managing erosion and sedimentation during construction and discharges to the City's municipal separate storm sewer system as required by the City's National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II Permit.

### **Summary of Substantive Revisions**

The following is a summary of the substantive revisions:

- O Existing Article II, Drainage (page 2).  
Existing Article II, Drainage, has been deleted, as the referenced master plan is no longer relevant. Regulations regarding the City's storm drainage system are covered under new Article IV, Municipal Separate Storm Sewer System (MS4).
- O New Article II, Stormwater Management (page 3).  
Existing Article III, Stormwater Management (pages 9-13), has been comprehensively revised and renumbered as Article II.
- O Section 73.22, Stormwater Management Requirements (page 3).  
This section provides that the stormwater management requirements of this article apply to all land disturbing activities, including the placement of fill. The current ordinance is vague and open to interpretation, especially regarding excavation and placement of fill on property without benefit of a permit.

O *Section 73.24. General Stormwater Management Design Criteria (page 4).*

General design criteria applied to all required stormwater management plans are provided in this section. These criteria incorporate and expand upon existing design criteria to include requirements for diverting direct discharges to the Indian River Lagoon, other surface waters, and wetlands through vegetated overflow and spreader swales.

O *Section 73.25. Single Family and Duplex Stormwater Management Plan Design Criteria (page 5).*

This section provides specific stormwater management requirements for single family and duplex development. The existing ordinance generally exempts all single family development from stormwater management requirements, except that runoff must be to a right-of-way or other City approved drainage system. If no such system exists, the first inch of rainfall over the impervious surface must be retained on site.

The proposed regulations expand the basic requirements for stormwater management for single family/duplex development. For new or substantially improved single family/duplex development or improvements resulting in an increase of more than 500 square feet of impervious surface, any impervious area covering more than 3,000 square feet will require the retention or detention the first 1.0 inch of rainfall for that portion of impervious surface over 3,000 square feet if an approved stormwater management system with sufficient capacity exists. Where no city-approved stormwater system exists or the existing system has insufficient capacity, the first 1.0 inch of rainfall must be retained on site.

[Explanatory note: Retaining or detaining the first inch or more of rainfall is a measure to improve the water quality of stormwater runoff by capturing sediments and pollutants contained in the “first flush” from a rain storm event.]

Non-substantial improvements to existing residential residences or increases of less than 500 square feet of impervious surface area are required to only meet general stormwater management standards.

The proposed regulations make the stormwater requirements for duplex development similar to single family development, which is a more practical and reasonable approach than the current regulations that apply the more costly and stringent requirements for commercial and other nonresidential development to duplexes. These revisions would bring the stormwater regulations for single family uses in general compliance with Policies 20.5 and 20.6 of the Drainage Subelement of the Comprehensive Plan.

O Section 73.26, Non-residential, Multiple-family and New Subdivision Development Stormwater Management Plan Criteria (pages 5 – 8).

This section significantly revises stormwater management requirements for non-single family/duplex development. Any development requiring a stormwater management plan pursuant to this section must be prepared by a Florida licensed professional engineer and approved by the City Engineer.

New development or substantial improvements to existing development will require compliance with new design standards of paragraph (c) of Section 73.26, including the retention or detention of the first 1.5 inches of rainfall on site which is consistent with and may exceed St. Johns Water Management District's design standards for water quality in certain instances. This standard applies even if the development does not meet the threshold to require a St. Johns Water Management District (SJWMD) Permit.

[Note: A permit is generally required from SJWMD for any project that: (1) results in construction of 4,000 square feet or more of impervious or semi-impervious surface subject to vehicular traffic; (2) construction of 9,000 square feet of impervious surface; and (3) construction of 5 acres or more of recreational area. Stormwater management systems that accommodate a single unit, duplex, triplex, or quadraplex, if not part of a larger common plan of development or sale, are exempt from these standards.]

Any land disturbing activity that will result in more than 1,500 of impervious area will be required to meet the standards of paragraph (c) for that portion of the stormwater runoff that will result from the increased impervious surface. Nonsubstantial improvements or other land disturbing activities that result in an increase of 1,500 square feet of impervious surface area or less will only be required to meet the general stormwater management design criteria of Section 73.24.

The current requirement that the runoff from a 10-year/24 hour storm event must be retained on site, unless an economic hardship is clearly demonstrated, is both impractical, very costly, seldom if ever applied, and subject to wide discretion in its application.

Additionally, the new regulations require that the stormwater management facilities must be designed to meet as a minimum the 25-year/24 hour storm event rather than the current 10-year/24 hour storm event. This requirement and the new retention requirements are consistent with the design standards of the St. Johns Water Management District, which has jurisdictional authority for stormwater management over certain levels of site development. The new retention requirements bring stormwater regulations for non-single family/duplex

development into compliance with the water quality standards for stormwater in Policy 20.5 of the Drainage Subelement of the Comprehensive Plan.

O Article III. Construction Site Erosion and Sediment Control (pages 13-16).

This new article establishes specific requirements and standards for controlling erosion and sediment control during construction or other land disturbing activity. These requirements basically mirror those for all projects requiring a FDEP generic permit. These new regulations are to ensure compliance with the requirements of the City's NPDES MS4 Phase II Permit and, very importantly protect sediments and other pollutants from entering the City's storm drainage and the Indian River Lagoon and other receiving surface waters.

O Article IV. Municipal Separate Storm Sewer System (MS4) (pages 17-22).

This new article, which generally replaces existing Article II, Drainage, is a requirement of the City's NPDES MS4 Phase II Permit. It establishes specific regulations regarding discharges to the City's storm drainage system and designates the City Engineer as the administrator responsible for administration and enforcement of its provisions. The regulations are intended to ensure that no illicit or unpermitted discharges enter the City's stormwater system to protect receiving surface waters and comply with applicable state and federal water quality standards.

**Recommendation**

The staff recommends that the City Council approve the draft ordinance for advertising and public hearing on May 4, 2010.

TJM/uf  
Attachment

ORDINANCE NO. 2010- \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 73, ARTICLE II, DRAINAGE AND ARTICLE III, STORMWATER MANAGEMENT OF THE CITY OF VERO BEACH CODE; DELETING EXISTING ARTICLE II, DRAINAGE AND REPLACING IT WITH NEW ARTICLE II, STORMWATER MANAGEMENT; DELETING EXISTING ARTICLE III, STORMWATER MANAGEMENT AND REPLACING IT WITH NEW ARTICLE III, CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL; CREATING NEW ARTICLE IV, MUNICIPAL SEPARATE STORM SEWER SYSTEM; PROVIDING FOR REQUIREMENTS, STANDARDS AND REVIEW PROCEDURES FOR STORMWATER MANAGEMENT PLANS FOR SINGLE FAMILY/DUPLEX, NONRESIDENTIAL, MULTIPLE FAMILY, AND NEW SUBDIVISION DEVELOPMENT; PROVIDING FOR REQUIREMENTS, STANDARDS, AND REVIEW PROCEDURES FOR EROSION AND SEDIMENT CONTROL PLANS FOR CONSTRUCTION ACTIVITY; PROVIDING FOR FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION GENERIC PERMITS FOR CERTAIN LAND DISTURBING ACTIVITIES; PROVIDING FOR REGULATIONS FOR DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, recent Evaluation Appraisal Report-based amendments to the City's Comprehensive Plan require that the City's regulations governing stormwater be substantially revised to address water quality, including expanding the applicability of stormwater management requirements to single-family development; and

**WHEREAS**, the Planning and Development and Public Works staffs have identified other issues in the existing regulations, including the need to delete obsolete provisions and to incorporate the requirements of the City's National Pollution Discharge

Elimination System (“NPDES”) Phase II, Municipal Separate Storm Sewer System (“MS4”) permit;

**WHEREAS**, the Planning and Development and Public Works staffs have prepared this draft Ordinance to address the aforementioned needs and issues; and

**WHEREAS**, the City Council finds that the adoption of this Ordinance amending Chapter 73 is consistent with the goals, objectives, and policies of the City’s Comprehensive Plan and the criteria for approving text amendments to the City’s Land Development Regulations pursuant to Section 65.22(i) of the City Code;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:**

Section 1. Amendment of Chapter 73, Article II, Drainage.

Chapter 73, Article II, Drainage, is hereby amended as follows:

#### **ARTICLE II. DRAINAGE**

##### **~~Sec. 73.20. Master drainage plan.~~**

~~The master plan for the installation of drainage facilities providing for the proper drainage of waters within the city, as prepared by Reynolds, Smith & Hills, engineering firm, as may be amended by adoption of any modifications resulting from a study by the Indian River Farms Drainage District or by any other future official studies approved by the city, is adopted as the plan which shall be adhered to in connection with the installation of drains, ditches, and storm sewers within the city. The master plan which is on file with the city clerk of the city shall be by reference made a part of this chapter, and whenever a master drainage plan is referred to, such reference shall be construed to refer to the master plan adopted by this section.~~

##### **~~Sec. 73.21. Permit required for work.~~**

~~No person shall interfere with any ditch, drain, sewer, or any drainage facilities or construct any such facilities other than those provided for in the master plan, nor shall any person cause any ditch or drain to enter into any of the ditches, drains, or storm sewers constructed or maintained by the city unless such person shall first have obtained~~

~~a permit therefor from the city manager, which permit shall be issued only after application and the need and necessity therefor shown to the city manager.~~

~~Secs. 73.22–73.30. Reserved.~~

## ARTICLE II. STORMWATER MANAGEMENT

### Section 73.21. Purpose.

The purpose of this article is to protect the public's health, safety, and welfare through control of stormwater runoff, minimizing impact on existing city, county, and/or state drainage facilities, assuring no illicit discharges to the city's Municipal Separate Storm Sewer System (MS4) and protecting and enhancing surface water, groundwater, and other natural resources of the City of Vero Beach in accordance with the city's comprehensive plan and mandates established by the State of Florida.

### Section 73.22. Stormwater management requirements.

(a) *Applicability.* Except as authorized by a certificate to dig, pursuant to chapter 76, historic preservation, any land disturbing activity that involves excavation, placement of fill, grading, altering of runoff patterns, or an increase in the amount of impervious cover shall be subject to the requirements of this article. The provisions of this article shall not apply to activities typically associated with landscaping, except where such landscaping may redirect or increase off-site runoff to adjacent properties or adversely impact a city-approved stormwater system.

(b) *Prohibition of land disturbing activity on vacant lands.* Excavation, placement of fill, grading, or the altering of runoff patterns on vacant lands is prohibited, except as allowed with a valid permit issued for the establishment of a use or structure.

(c) *Stormwater management plan requirement.* No excavation, placement of fill, foundation construction, grading, or altering of runoff patterns shall take place prior to approval of a stormwater management plan pursuant to this article.

(d) *Development requiring site plan approval.* No site plan shall be approved or building permit issued for development that includes any land disturbing activities set forth in (a) above without an approved stormwater management plan.

(e) *Consistency with local, state, and federal permitting requirements.* No stormwater management plan for any development site subject to the jurisdictional authority of the Florida Department of Environmental Protection, St. John's River Water Management District, or any other agency having jurisdiction over stormwater management systems shall be approved or an approved site plan released unless it meets the stormwater management criteria and permitting requirements of that agency and this article.

**Sec. 73.23. Stormwater management plan application requirements.**

Stormwater management plans required by this article shall be submitted to the planning and development department in conjunction with the application for site plan approval pursuant to part III, chapter 64 of this Code. The format and specific information required for stormwater management plans shall be prescribed by the city engineer. The city engineer shall have authority to waive any prescribed plan information requirement for a specific project where he has determined, in his professional opinion and based on good engineering practices, the waiver does not inhibit proper stormwater management and compliance with the requirements of this article.

**Sec. 73.24. General stormwater management design criteria.**

All stormwater management plans submitted pursuant to this article, except as provided for herein, shall comply with the following design criteria:

- (1) No surface runoff shall be directed to adjacent properties.
- (2) Surface runoff overflow shall be directed to a city-approved stormwater management facility where available or to public right-of-way where such facilities are unavailable, subject to approval by the city engineer.
- (3) Discharges to the Indian River Lagoon or any surface water that connects with that body of water or discharges to wetlands shall be conveyed through indirect means by use of vegetated overflow and spreader swales or other similar measures approved by the city engineer.
- (4) Within special flood hazard areas, grading and site alteration shall not result in any adverse impacts on flood protection or storage capacity. Flood storage capacity shall be created in an amount equal to at least that volume of the 100-year base flood displaced by fill, except in areas within the Category I storm surge zone as established by the most current run of a Sea, Lake, and Overland Surges for Hurricanes (SLOSH) computerized model by the State of Florida.
- (5) All earthen slopes shall be of no steeper ratio than 4-foot horizontal to 1-foot vertical.
- (6) Specific measures shall be in place during construction to ensure effective control of erosion and sedimentation pursuant to article III of this chapter. Control measures shall be installed and stabilized between the areas to be altered, graded, cleared and prepared for development and any potential receiving waters and adjacent properties.

**Sec. 73.25. Single-family and duplex stormwater management plan design criteria.**

(a) *New Single-family and duplex residences.* All new single-family and duplex residences shall require a stormwater management plan approved by the city engineer that complies with the following minimum design criteria, as applicable:

- (1) Where a city-approved stormwater management system with sufficient capacity exists, stormwater shall be directed to the city right-of-way or a drainage facility approved by the city engineer. Any development that proposes to place impervious area over more than 3,000 square feet shall be required to retain or detain the first 1.0 inch of rainfall for the impervious surface area exceeding 3,000 square feet.
- (2) Where no public or city-approved stormwater system exists or the existing system does not have sufficient capacity, as determined by the city engineer, a minimum of the first 1.0 inch of rainfall over the impervious area on site shall be required to be retained or detained on site prior to discharge to the city right-of-way or a drainage facility approved by the city engineer.

(b) *Existing single-family and duplex residences.* All existing single-family and duplex residences shall require a stormwater management plan approved by the city engineer that complies with the following minimum design criteria, as applicable.

- (1) Any non-substantial improvement to existing single-family and duplex residences or other land disturbing activities set forth in 73.22(a) that will result in an increase of less than 500 square feet of impervious surface area shall be subject to the general stormwater management design criteria in section 73.24.
- (2) Any substantial improvements to existing single-family or duplex residences or any site improvements that will result in an increase of 500 square feet or more of impervious surface area shall require a stormwater management plan that complies with the design criteria in (a)(1) or (a)(2) above, as applicable.

**Sec.73.26. Non-residential, multiple family, and new subdivision development stormwater management plan criteria.**

(a) *New non-residential, multiple family and subdivision development.* All new non-residential, multiple family, and major subdivisions involving the creation of additional lots as defined in chapter 70, subdivisions, of this Code, shall require a stormwater management plan, prepared by a Florida licensed professional engineer and approved by the city engineer, that complies with the minimum design criteria of (c) below.

(b) Existing non-residential and multiple family development. Any modifications to existing non-residential and multiple family principal buildings and accessory structures that will increase the amount of impervious surface area or any other land disturbing activities set forth in section 73.22(a) shall be subject to the following minimum design criteria:

- (1) Substantial improvements to existing principal buildings shall require compliance with the specific design requirements of (c) below to the maximum extent practical as determined in the professional opinion of the city engineer, taking into account site constraints, the construction costs of the proposed improvements compared to the construction costs of the needed stormwater management system improvements, and other factors that he may determine to be relevant.
- (2) Any land disturbing activities as set forth in section 73.22(a) that will result in an increase of more than 1,500 square feet of impervious surface area shall require compliance with the specific design requirements of (c) below to address that portion of stormwater runoff that will result from the additional impervious surface area.
- (3) Non-substantial improvements to existing principal buildings and improvements to accessory structures or any other land disturbing activities as set forth in section 73.22(a) that will result in an increase in the amount of impervious surface area of 1,500 square feet or less shall be subject to the general stormwater management design criteria in section 73.24.

(c) On-site stormwater management plan and facilities. Stormwater management plans and stormwater facilities shall comply with the following minimum design criteria:

- (1) Overall Minimum Stormwater Management Facilities Design Criteria.
  - a. The stormwater management facilities shall comply with the minimum design requirements of the St. Johns Water Management District, pursuant to Chapter 40C-42, F.A.C., incorporated herein by reference, in addition to the minimum requirements of this section.
  - b. Should the stormwater management facilities design requirements of the federal or state agencies having jurisdiction over stormwater management systems be more stringent than the minimum requirements of this section, then the requirements of such agencies shall prevail.

(2) Stormwater Quantity.

- a. Design storm event: A minimum of 25-year and mean annual reoccurring storm event of 24 hour duration
- b. Design rainfall distribution: SJRWMD Type II FL Modified or other distribution approved by the city engineer.
- c. Inflow hydrograph method: Rational, SCS, Santa Barbara, or other method approved by the city engineer, as selected by the Florida licensed professional engineer preparing the stormwater management plan.
- d. Total volume: Site must detain or retain the stormwater runoff volume required to meet water quality and maximum discharge allowance criteria.
- e. Maximum discharge rate: Post-development peak discharge rate and stormwater runoff volume shall not exceed the predevelopment peak discharge rate and stormwater runoff volume.
- f. Percolation test: A percolation test is required using a method approved by the city engineer.

(3) Stormwater Quality. All development sites pursuant to this section shall be designed to retain or detain the first 1.5 inches of rainfall on-site before discharge into a city-approved outfall to the Indian River Lagoon or any surface waters connecting with that aforementioned water body.

(4) Discharge structures. Skimming devices or weirs, or a combination thereof, shall be required where deemed necessary by the city engineer, in his professional opinion and based on good engineering practices. The design of such discharge structures shall be approved by the city engineer.

(5) Stormwater management facilities design criteria.

- a. Slope vegetation: Side slopes shall be covered completely with sod.
- b. Industrial Uses: Connections from industrial uses to public stormwater facilities shall only be allowed after approval by the city engineer. The city engineer's decision shall be based upon an evaluation of the projected quantity and quality of discharge from

the industrial site and any other relevant factors to determine the compatibility of the proposed discharge with the city's MS4 and impacts on the water quality and beneficial uses of receiving surface waters. In approving the connection to the city's MS4, the city engineer may place reasonable conditions and requirements on the approved stormwater management plan to ensure compatibility with the city's stormwater system and minimize potential impacts on water quality and beneficial uses of receiving surface waters.

- c. Stormwater management facilities completion requirements: No changes to the approved stormwater management plan shall be allowed except in accordance with the standards and procedures for amending site plans. After completion of the stormwater management facilities and prior to issuance of a certificate of occupancy or a final completion inspection, the design engineer of the stormwater management plan shall submit to the public works department a sealed certification attesting that the stormwater management facilities have been constructed in accordance with the approved stormwater management plan. No certificate of occupancy shall be issued or final inspection completed without receipt of this sealed certification by the public works department.
- d. Easements: No stormwater management facilities shall be placed in existing or proposed easements other than drainage easements approved by the city engineer.

**Sec. 73.27. Conditional approval.**

Based on his professional opinion and in accordance with good engineering practices, the city engineer may place reasonable conditions upon his approval of a stormwater management plan to ensure compliance with this article and article IV of this chapter, including but not limited to stormwater monitoring or sampling requirements.

**Sec. 73.28. Proper installation and maintenance required.**

All stormwater management structures and stormwater mitigation measures shall be operated and maintained by the owner and occupant of the site in accordance with the approved stormwater management plan and this Code and the permit conditions of all federal or state agencies having regulatory jurisdiction over stormwater management facilities. Any failure to do so shall constitute a violation of this Code.

**Secs. 73.29-72.30. Reserved.**

Section 2. Amendment of Chapter 73, Article III, Stormwater Management.

Chapter 73, Article III, Stormwater Management, is hereby amended as follows:

## **ARTICLE III. STORMWATER MANAGEMENT**

### **Sec. 73.31. Purpose.**

~~The purpose of this article is to protect the health, safety, and welfare of the citizens of Vero Beach; to implement those policies and objectives found in the drainage element of the city's comprehensive plan; to control stormwater runoff and minimize impact on existing city, county, and/or Florida Department of Transportation drainage facilities; and to protect ground and surface waters to ensure a current and future usable water supply.~~

### **Sec. 73.32. Review criteria for development projects.**

~~(a) — All development projects shall be subject to the requirements of this article with the exception of single family development. Stormwater management for new single family residences and all renovations, remodels, additions or other modifications (pools, driveways, etc.) shall include the site being filled and graded to direct all surface water runoff to the right of way drainage system or other approved drainage facilities. No surface water runoff may be directed to adjacent properties. Where no approved drainage system exists, the site shall be designed to contain the runoff from the first one inch of rainfall.~~

~~Prior to the issuance of a building permit, a filling and grading (drainage) plan must be approved by the city engineer. This plan must contain the flood zone, actual elevations, proposed site elevations and lowest floor elevations.~~

~~If a site is to be filled in advance of the issuance of a building permit, the filling and grading (drainage) plan must be approved by the city engineer. Further, if construction does not commence within 90 days of the date of filling, then the site must be vegetated to prevent erosion.~~

~~(b) — The review of stormwater management plans for all development projects shall be based upon the net increase in impervious surface resulting from the development.~~

~~(c) — Thresholds for the various limits of developments are as follows:~~

<i>Net Increase in Impervious Area</i>	<i>Design Criteria</i>	<i>Required Designer of Stormwater Management Plan</i>
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#### **CATEGORY I**

Less than 500 square feet	Direct site runoff to public	N/A
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drainage facilities

CATEGORY II

500 square feet but less than 2,500 square feet    ~~Retain and dispose of first 1- inch of runoff on site; direct overflow to public drainage facilities~~    Licensed Florida Professional Engineer or Architect

CATEGORY III

2,500 square feet or greater    ~~As specified in section 73.34.~~    Licensed Florida Professional Engineer

**Sec. 73.33. On-site stormwater management plan requirements.**

~~(a) All Category III development projects shall provide a stormwater management plan which includes all of the information and calculation requirements as specified in this section and section 73.34 of the Code prior to receiving site plan or minor change approval by the City of Vero Beach Planning and Zoning Board. The applicant/owner shall submit such a plan with the site plan/minor change application.~~

~~(b) All stormwater management plans shall include the following information;~~

~~(1) A soil boring log prepared by an approved geotechnical firm indicating representative soil types and the groundwater table.~~

~~(2) Percolation tests pursuant to procedures established by the City of Vero Beach Department of Engineering.~~

~~(3) The size, grade, and elevation of all existing or proposed on-site and/or public drainage facilities located within 200 feet of the proposed development. Elevations shall be based upon National Geodetic Vertical Datum (N.G.V.D.) of 1929.~~

~~(4) Description of the existing predevelopment drainage characteristics of the land, including those areas contributing stormwater which passes through the site.~~

~~(5) Right of way elevations of any street contiguous to the site. The locations of these elevations shall include, but not limited to, the centerline of roadway, edge of roadway (curb if applicable), swales, and sidewalk at intervals not to exceed 50 feet.~~

~~(6) Proposed finished elevation of each building site and the first floor level. A proposed grading plan shall also be included.~~

- ~~(7) Transitional property line grades (elevations) shall be indicated on the grading plan so that stormwater impact upon adjacent sites may be precluded.~~
- ~~(8) Proposed system for the orderly retention and disposal of surface water runoff with the system capabilities of having a minimum ability to accommodate the amounts specified by section 73.34 below.~~
- ~~(9) All swales, retention areas, and all other drainage facilities proposed shall be indicated on the grading plan with elevations and guidelines shown as applicable.~~
- ~~(10) Location and method of connection with off-site drainage facilities to accommodate the site's excess surface water overflow, including documents indicating legal access across private property, if applicable.~~
- ~~(11) Proposed method(s) of erosion protection, where applicable.~~
- ~~(12) The City of Vero Beach Department of Engineering may waive any of the requirements set forth above if it is determined by the department that the waiver does not inhibit proper stormwater management.~~

**Sec. 73.34. On-site stormwater management design requirements.**

All Category III site developments shall include a stormwater management plan prepared by a registered professional engineer licensed to practice in the State of Florida. This plan shall meet the following criteria:

**QUANTITY**

- ~~Design Storm: ten-year/24 hour storm or three/24hour if economic hardship is clearly demonstrated.~~
- ~~Design Rainfall Distribution: F.D.O.T. Zone 7 Rainfall Curve~~
- ~~Inflow Hydrograph Method: Rational, SCS, Santa Barbara, etc., as chosen by plan designer (Florida Registered Professional Engineer)~~
- ~~Total Volume: Site must retain at least the volume from a ten-year/24 hour storm. Lesser volumes may be considered if economic hardship is clearly demonstrated.~~
- ~~Maximum Discharge Rate: Post-development shall not exceed predevelopment.~~

~~Percolation Test:~~ Required, with method approved by City of Vero Beach Department of Engineering.

## QUALITY

~~Detention/Retention:~~ Post development shall not exceed predevelopment.

~~Wet/Dry:~~ Either wet or dry retention/detention is acceptable dependent upon site conditions and location.

~~Time:~~ Full capacity recovery within 36 hours.

~~Volume:~~ ten-year/24-hour design storm.

~~Percolation:~~ Disposal on site via surface or underground exfiltration system(s) or combination thereof.

## DISCHARGE STRUCTURES

~~Types:~~ Skimming devices and/or weirs required where applicable and practical with the design subject to review by the City of Vero Beach Department of Engineering.

## DRAINAGE AREA DESIGN STANDARDS

~~Side Slopes:~~ 4:1 or less required; however, upon demonstrated need and adequate justification, the City of Vero Beach Department of Engineering may consider and approve the use of 3:1 maximum side slopes.

~~Vegetation:~~ Solid sod

~~Maximum depth:~~ Eighteen inches; any depth greater than 18 inches is subject to review by the City of Vero Beach Department of Engineering with side slopes and site constraints being critical criteria.

~~Industrial Contingency Design:~~ No connections to public stormwater facilities shall be allowed.

~~Maintenance Plan and Completion Requirements:~~ No changes to approved plan allowed except as modified by site plan review process; all site stormwater management facilities shall be maintained per approved plan. After completion of the stormwater management

~~facilities and prior to issuance of a certificate of occupancy, the designer of the plan shall submit a certification attesting the facilities have been constructed in accordance with the approved stormwater management plan.~~

**Easements:**

~~Release or dedication of easements as may be required; no stormwater management facilities are to be placed in existing or proposed easements other than approved drainage easements. Any use of such stormwater easements is subject to approval by the City of Vero Beach Department of Engineering.~~

**OTHER PERMITTING AGENCIES**

~~The proposed stormwater management plan shall meet all St. Johns River Water Management District, Indian River Farms Water Control District, and Florida Department of Transportation stormwater criteria and permit requirements as applicable.~~

**ARTICLE III. CONSTRUCTION SITE EROSION AND  
SEDIMENT CONTROL**

**Sec. 73.31. Purpose.**

The purpose of this article is to protect the public's health, safety, and general welfare through regulation of land disturbing activities during the construction of buildings, structures, or other site improvements and to reduce pollutants in stormwater runoff into the Municipal Separate Storm Sewer System (MS4). These regulations recognize that during construction, disturbed soil is highly vulnerable to erosion by wind and water, which may result in adverse consequences and impacts, including but not limited to:

- (1) Endangerment of aquatic flora and fauna by reducing water quality through the discharge of pollutants and the siltation of habitat.
- (2) Impediments to flow of stormwater drainage systems, ditches, canals, and swales that necessitate their maintenance and the dredging of water bodies.
- (3) Conveyance of disturbed soil and pollutants from the construction site to adjacent properties.

**Sec. 73.32. Definitions.**

For the purpose of this article, the following terms shall have the definitions indicated:

*Best Management Practices (BMPs):* Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater receiving waters or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Construction activity:* Any land disturbing activity that involves excavation, placement of fill, clearing or grubbing, demolition, grading, or the altering of runoff patterns.

*Erosion and sediment control plan:* A set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a site during and after construction.

*FDEP:* Florida Department of Environmental Protection.

*FDEP Generic Permit for Stormwater Discharge:* A FDEP Generic Permit for Stormwater Discharge from Regulated Construction Activities issued by that agency pursuant to authority delegated to the State of Florida under 33 USC § 1342(b) that authorizes the discharge of pollutants to the waters of the United States.

*Stormwater pollution prevention plan (SWPPP):* A document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**Sec. 73.33. Erosion and sediment control plan.**

(a) *Applicability.* All construction activity shall be subject to the requirements of this article, except as exempted herein. The provisions of this article shall not apply to activities associated with landscaping, except where such landscaping may redirect or increase off-site runoff to adjacent properties or adversely impact a city-approved stormwater system.

(b) *Construction activity.* No person may engage in any construction activity without an erosion and sediment control plan approved by the city engineer.

(c) *Building permits, site plans, and preliminary plats.* No building permit shall be issued or an approved site plan or preliminary plat released for any construction activity without an erosion and sediment control plan approved by the city engineer.

(d) *Erosion and sediment control plan application.* Erosion and sediment control plans required by this article shall be submitted to the planning and development department in conjunction with an application for site plan approval pursuant to part III, chapter 64 of this Code. Any construction activity described above that will result in the disturbance of one acre or more shall require an FDEP generic permit for stormwater discharge pursuant to section 73.34.

(e) *Erosion and sediment control plan format and content.* The format and specific content of erosion and sediment control plans required by this article shall be as prescribed by the city engineer. An approved erosion and sediment control plan must address all applicable BMPs necessary to properly control erosion and sediment resulting from construction activity and comply with the general standards in paragraph (f) below.

(f) *General standards.* The following general standards shall apply to all erosion and sediment control plans and their implementation:

- (1) *Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and stabilized. Clearing techniques that retain natural vegetation and drainage patterns shall be implemented.*
- (2) *Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site and be maintained to project completion.*
- (3) *The angle for graded slopes and fills shall not be greater than the angle which can be retained by vegetative cover or other adequate erosion-control devices or structures (generally 4:1 or less). Slopes left exposed shall, within 10 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to prevent erosion.*
- (4) *Groundcover sufficient to restrain erosion shall be planted or otherwise provided within 10 working days on portions of cleared land upon which further construction activity is not being undertaken within 30 days of clearing.*
- (5) *Vegetative cover or other erosion control devices or structures used to meet these requirements shall be properly maintained.*

- (6) Temporary seeding or sodding, adequate covering, or chemical application on exposed soils, including stockpiles of topsoil, sand, or other construction fill, shall be used where delays in construction of more than 7 days are anticipated.
- (7) Waste generated on-site, including but not limited to discarded building materials, concrete truck wash-out, chemicals, litter, and sanitary waste must be stored, secured, or otherwise controlled to the maximum extent practicable to prevent adverse impacts to water quality.

**Sec. 73.34. FDEP generic permit for stormwater discharge permits required.**

A FDEP generic permit for stormwater discharge shall be required for construction projects resulting in land disturbance of one acre or more. A copy of the FDEP Notice of Intent for a generic permit for stormwater discharge and the stormwater pollution prevention plan (SWPPP) required for said permit shall be submitted to the planning and development department along with the site plan application. The SWPPP shall be deemed as meeting the erosion and sediment control plan requirements of this article after review and approval by the city engineer. A copy of the FDEP permit shall be maintained onsite by the permit holder for review by any city or other authorized state official upon request.

**Sec. 73.35. Proper installation and maintenance required.**

Failure to properly implement, install, operate, and maintain all erosion, pollutant and sediment controls required by an approved erosion and sediment control plan and any applicable state or federal permit shall constitute a violation of this Code.

**Sec. 73.36. Conditional approval.**

In approving an erosion and sediment control plan pursuant to this article, the city engineer may place reasonable conditions upon the approval to ensure compliance with this article and article IV of this chapter, including but not limited to stormwater monitoring or sampling requirements.

**Sec. 73.37. Exemptions.**

Any emergency activity necessary for the protection of life, property, or natural resources and maintenance and repair work to the city's MS4, is exempt from the requirements for obtaining approval of an erosion and sediment control plan pursuant to this article provided such activity does not contribute to any on-site generated erosion or degradation of lands or waters beyond the boundaries of the property or construction area.

**Secs. 73.38-73.40. Reserved.**

Section 3. Creation of Chapter 73, Article IV, Municipal Separate Storm Sewer System.

Chapter 73, Article IV is hereby created that reads as follows:

**ARTICLE IV. MUNICIPAL SEPARATE STORM SEWER SYSTEM**

**Sec. 73.41. Purpose.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Vero Beach and to protect and enhance the quality of watercourses through the regulation of all discharges to the city's separate storm sewer system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES). In addition to the foregoing, the objectives of this article include but are not limited to:

- (1) Effectively prohibiting illicit discharges and connections to the MS4.
- (2) Establishing legal authority for the city to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article and state and federal law.

**Sec. 73.42. Applicability.**

This article shall apply to all areas within the city limits and all watercourses in said area entering the MS4 through a "point source" as defined in section 73.43, unless exempt under rule 62.624.200(2), F.A.C.

**Sec. 73.43. Definitions.**

For the purpose of this article, the following shall mean:

*Hazardous materials:* Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, or property, or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.

*Illicit discharge:* Any direct or indirect non-stormwater discharge to the MS4 except as exempted in section 73.50.

*Illicit connections:* Any of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including but not limited to any conveyances that allow any non-stormwater discharge including sewage and processed wastewater to enter the MS4;
2. Any connections to the MS4 from indoor drains and sinks, regardless of whether or not said drain or connection had been previously allowed, permitted, or approved by a regulatory agency; or
3. Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by a regulatory agency.

Industrial activity: Activities subject to NPDES industrial permits as defined in 40 CFR Section 122.26(b)(14).

MS4 or municipal separate storm sewer system: Publicly-owned facilities operated by the city by which stormwater is collected, conveyed, and discharged to regulated waters, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge: Any discharge to the MS4 that is not composed entirely of stormwater.

PPM: Parts per million.

Point source: Any discernible, confined, and discrete conveyance, such as any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, or landfill leachate collection system from which pollutants are or may be discharged.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: sediment; paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate

metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Regulated waters: Waters of the United States as defined in 40 CFR § 122, as amended, and Waters of the State as defined in Ch. 403, F.S., that lie within the City of Vero Beach.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a wastewater facility.

Watercourse: Any body of water including, but not limited to lakes, ponds, rivers, streams, swales, ditches, and canals.

#### **Sec. 73.44. Responsibility for administration and enforcement.**

The city engineer shall have the duty and authority to administer and ensure enforcement of the provisions of this article in conjunction with other city departments.

#### **Sec. 73.45. Discharge prohibitions.**

Other than stormwater, no person shall discharge or cause to be discharged into the MS4 or watercourses any materials, including but not limited to pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards. The commencement, conduct or continuation of any such discharge to the MS4 is prohibited with the following exceptions:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, de-chlorinated swimming pools (less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by a federal or state regulatory agency and approved by the city engineer as being necessary to protect public health and safety.
- (3) Any non-stormwater discharge permitted under an NPDES permit, waiver, or wastewater discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency.

provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the city engineer for any discharge to the MS4.

**Sec. 73.46. Accidental discharges.**

Notwithstanding other requirements of law as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4 or regulated waters, said person shall take all necessary steps to ensure the discovery, containment, and clean-up of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city engineer within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained by the owner or operator for at least three years from the date of the discharge of any prohibited materials and shall be made available for review by the city engineer upon request during normal business hours.

**Sec. 73.47. Prohibition of illicit connections.**

The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.

**Sec. 73.48. Monitoring.**

The following monitoring and sampling of discharges to the city's MS4 may be required by the city engineer upon determination of a probable violation of this article:

- (1) The installation and maintenance of such devices as are necessary to conduct sampling or monitoring of discharges to the city's MS4 and the collection of any samples deemed necessary.
- (2) The undertaking of reasonable monitoring and sampling of discharge to the city's MS4 and the submittal of periodic monitoring reports to the city

engineer by the person or owner of any property, building, or structure engaging in the activity of discharging to the city's MS4.

- (3) All such monitoring and sampling expense shall be borne by the subject person or owner.

**Sec. 73.49. Suspension of MS4 access.**

(a) Suspension due to illicit discharges in emergency situations. The city engineer is authorized, without prior notice, to issue a stop order pursuant to chapter 2, article VII, of this Code suspending MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the public health, safety or welfare, or to the MS4 or regulated waters.

(b) Suspension due to the detection of illicit discharge. Any person or owner found discharging to the MS4 in violation of this article may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The city engineer shall notify in writing a violator of the proposed termination of its MS4 access. No person shall reinstate MS4 access to premises terminated pursuant to this section without the prior written approval of the city engineer.

**Sec. 73.50. Industrial, commercial or construction activity discharges.**

(a) Stormwater from areas of any industrial, commercial or construction activity shall be controlled, treated and managed on-site using best management practices and approved by the city engineer in accordance with articles II and III of this chapter so as not to cause an illicit discharge to the city's MS4 or regulated waters.

(b) Authorized discharges to the city's MS4 shall be controlled so they do not impair the operation or contribute to the failure of the MS4 to meet any applicable local, state, or federal law or regulation.

(c) Authorized discharges to regulated waters shall be controlled so that they do not adversely impact the quality or beneficial uses of those waters or result in violation of any applicable local, state, or federal law or regulation.

**Sec. 73.51. Watercourse protection.**

Every person owning or in possession of property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse or cause flooding to other properties. In addition, privately owned structures within or adjacent to a

watercourse shall be maintained so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**Sec. 73.52. Interconnected MS4s.**

Interconnected MS4s, including MS4s not owned by the city, shall be controlled and maintained so they do not impair the operation of or contribute to the failure of the receiving MS4 to meet any applicable local, state, or federal law or regulation. An owner of any section of an interconnected MS4 shall be responsible for the water quality within its respective portion of the system and shall coordinate with the owners of the downstream sections.

**Sec. 73.53. Minimum standards.**

The standards set forth herein and promulgated pursuant to this article are minimum applicable standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants to the city's MS4 or regulated waters.

**Secs. 73.54 -73.60. Reserved.**

Section 4. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 5. Effective Date.

This ordinance shall become effective upon final adoption by the City Council.

\*\*\*\*\*

This Ordinance was read for the first time on the \_\_\_\_ day of \_\_\_\_\_, 2010, and was advertised in the Indian River Press Journal on the \_\_\_\_ day of \_\_\_\_\_, 2010, as being scheduled for a public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember

\_\_\_\_\_, seconded by Councilmember \_\_\_\_\_,

and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Vice Mayor Sabin C. Abell</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Brian Heady</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Kenneth J. Daige</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**ATTEST:**

**CITY OF VERO BEACH,  
FLORIDA**

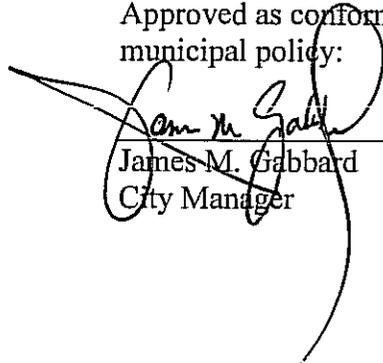
\_\_\_\_\_  
Tammy K. Vock  
City Clerk

\_\_\_\_\_  
Kevin Sawnick  
Mayor

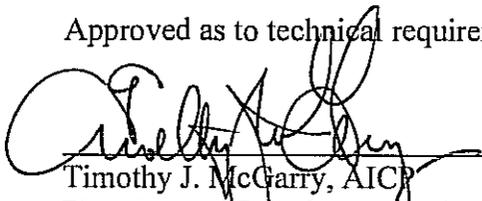
Approved as to form and legal sufficiency:

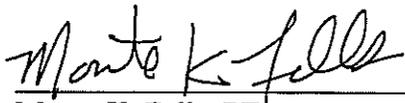
Approved as conforming to  
municipal policy:

  
\_\_\_\_\_  
Charles P. Vitunac  
City Attorney

  
\_\_\_\_\_  
James M. Gabbard  
City Manager

Approved as to technical requirements:

  
\_\_\_\_\_  
Timothy J. McGarry, AICP  
Planning and Development Director

  
\_\_\_\_\_  
Monte K. Falls, PE  
Public Works Director

MEMORANDUM

**TO:** Mayor Kevin Sawnick and  
City Councilmembers

**FROM:** Tammy K. Vock, MMC   
City Clerk

**DATE:** March 28, 2010

**SUBJECT:** Live Video Streaming

Attached is all the information that I have given you concerning Live Video Streaming. As you can see there are a few different options that we can choose from depending on how much we want to spend and the quality that we are looking for.

There is an issue on our televising equipment that I will be bringing before you at budget time in July. Our television equipment, including the projector and cameras, is ten years old and needs to be replaced. I am in the process of getting bids on how much it is going to cost to replace the equipment and we are looking at about \$40,000.

Also, at that time I will be approaching Council on going with a paperless agenda. At this point in time, I feel that with the amount of time that it takes to copy the agenda package and the paper that is used, it probably is time for us to consider this.

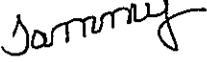
It would be my recommendation that we hold off implementing the Live Video Streaming until after we have reviewed the bids received for replacing the television equipment at budget time this July.

Thank you for your consideration in this matter.

/tv

## MEMORANDUM

**TO:** Mayor Kevin Sawnick and  
City Councilmembers

**FROM:** Tammy K. Vock, MMC   
City Clerk

**DATE:** March 11, 2010

**SUBJECT:** Live Video Streaming

Attached is the additional information that you asked for concerning Live Video Streaming. From the information that we received back from Martin County it appears that archived meetings (which the City of Vero Beach is using now) is viewed more than the actual live meetings.

Hopefully, Council has had a chance to review the different websites associated with each of the options. With Option A, the advertising that is displayed at the bottom of the screen while the meeting is live is something that the City will have no control over, which is one of the reasons that the cost for option A is the lowest.

It is Council's decision as to whether or not they would like me to pursue with having our Council meetings appear on the internet live.

/tv

## Cost Estimates for Live Video Streaming

### Option A - Low Budget (broadcast vendor's name and paid advertising on screen)

Sample at [www.cityofsebastian.org/live](http://www.cityofsebastian.org/live)

Live stream of Channel 13 using embedded video on City web page with advertising

**Hardware & Software:**

PC running Windows XP	\$800
ATI video card	\$100
Cabling	\$350
Conversion software	\$100

**Services:**

Technical support to install and train	\$500
--	-------

**Start-up Cost** **\$1,850**

**Operating Cost:**

**Monthly service fee** **\$0**

Limited support at \$50 per hour as needed

### Option B - Reliable Quality (no advertising, higher quality picture, more reliable link)

Sample at <http://www.christchurchvero.org/default.asp?page=42967>

Live stream of City Council meetings using link to video page on City website

**Hardware & Software:**

HP Pavillion P677 with Decklink capture card	\$1,550
Active video splitter	\$107
Cabling	\$350
Conversion software	\$995

**Services:**

Technical support to install and train	\$350
--	-------

**Start-up Cost** **\$3,352**

**Operating Cost:**

**Monthly service fee (50 viewers 4 hours per week)** **\$200**

Local support at \$45 per hour as needed

### Option C - Scalable Solution (reliable, quality picture, upgradable to integrated agenda package)

Sample at [http://martin.granicus.com/MediaPlayer.php?publish\\_id=2](http://martin.granicus.com/MediaPlayer.php?publish_id=2)

Live stream of Channel 13 using link to video page on City website

**Hardware & Software:**

Hardware	\$3,050
Software	\$350
Cabling	\$350

**Services:**

Technical support to install and train (remotely)	\$905
---	-------

**Start-up Cost** **\$4,655**

**Operating Cost:**

**Monthly service fee (includes 8am - 8pm support)** **\$378**

24/7 remote support per month (optional) \$70

Vock, Tammy

From: Reichardt, Nancy  
Sent: Tuesday, March 09, 2010 10:08 AM  
To: Vock, Tammy  
Subject: Number of viewers for live stream video

Tammy,

Here is the information I found about Internet live video viewership:

Martin County (population 143,868)

County Commission live video viewership on the following dates in 2010:

2/23 Regular meeting - 120  
2/22 Budget meeting - 180  
2/09 Regular meeting -140  
1/26 Regular meeting -130  
1/12 Regular meeting - 70  
1/5 Regular meeting - 70  
Average - 118

Note: During the first two months of this year, they estimate that there were around 1,200 viewings of video-on-demand (VOD) archived meetings, compared to the 710 viewings of the live video. The City of Vero Beach already offers VOD for City Council meetings.

City of Sebastian (population 22,000)

Staff estimated that there were normally 20 or less viewers of the Internet live stream they provide on City Council meetings. However, last year during a contentious meeting about a staff member, the viewership shot up to about 200. They did not provide VOD numbers.

Let me know if you need any more information.

Nancy N. Reichardt, PMP, CCIO  
Information Systems Manager  
City of Vero Beach  
P.O. Box 1389  
Vero Beach, Florida 32961-1389  
office 772-978-4751  
cell 772-360-5393  
fax 772-978-4791

# Survey Results

## TIME SPENT WATCHING COMMISSION MEETINGS

We sent an email questionnaire to a random sampling of 1,000 subscribers out of a total of roughly 5,000 DEFENDER subscribers. Its purpose was to learn how much time readers spent following Commission meetings on Martin County's MCTV. 98 responses were received and compiled below. Note that these findings do not represent the viewing activities of the general population since DEFENDER subscribers are much more involved, interested and informed on public issues than most residents – as well as being smarter and better looking (-)

An impressive **37.8%** of respondents had attended at least one Commission meeting in person during the previous year.

**An equally impressive 65.3% of respondents watched Commission meetings on MCTV during the previous year, as follows:**

**32.8%** of those who viewed Commission meetings watched 10 or more meetings per year..

**26.6%** of those who viewed Commission meetings watched 5 to 9 meetings per year.

**40.6%** of those who viewed Commission meetings watched 1 to 4 meetings per year.

**Of those who viewed, this is how much of the meetings they watched:**

**17.2%** of meeting watchers stayed tuned in for the entire meeting.

**34.4%** of meeting watchers stayed tuned in for about half of the meeting.

**48.4%** of meeting watchers stayed tuned in for about a quarter or less of the meeting.

### *MCTV facts and figures*

Here is some interesting non-survey information about the excellent MCTV (Comcast Channel 20) coverage of meetings and other activities in Martin County:

- ~~The total budget for MCTV (that's all personnel, equipment, operations, etc.) is \$169,791 for FY10.~~
- There are two full time staff members (a reduction of 50% over previous years), plus volunteers.
- ~~The single largest line item in that budget, besides personnel, is \$43,571 for closed captioning of meetings (BoCC, LPA, Code Enforcement, MPO).~~
- The Consumer Choice Act of 2007 (Florida Legislature) requires Government Access cable channels like MCTV to cablecast a minimum of 10 hours a day of which 5 hours cannot be repeat programming (meeting coverage is not allowed to contribute to these totals). MCTV runs 24/7.
- In FY09, MCTV raised more than \$26,000 in revenues selling program sponsorships and production services. This revenue helps to hire contractors to do the diverse programming needed to meet the requirements of the Consumer Choice Act. The Board of Commissioners approved a change in the MCTV policy last May to enable the County to seek sponsorships and to provide production services to the not-for-profit organizations that receive County funds.

**COUNCIL AGENDA REPORT**  
**MEETING OF APRIL 6, 2010**

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** James M. Gabbard, City Manager

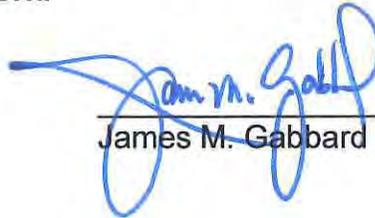
**DATE:** March 25, 2010

**SUBJECT: AIRPORT OBSTRUCTION SURVEY**

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Attached is a memorandum from Ericson Menger, Airport Director, dated March 23, 2010, which provides background information and a recommendation on the above-referenced subject.

**It is the recommendation of the City Manager's Office that Council authorize staff to proceed with Phase 2 of the Airport Obstruction Survey, which includes approval to prepare a budget, pursue grant funding, design and bid the project, and award a contract for this work.**

  
James M. Gabbard

:jav  
Attachment

xc: Ericson Menger  
Stephen Maillet

N:\AGENDA\AIRPORT\2010\AIRPORT OBSTRUCTION SURVEY.DOC

## MEMORANDUM

**TO:** James M. Gabbard, City Manager  
**FROM:** Ericson W. Menger, Airport Director  
**DATE:** March 23, 2010  
**SUBJECT:** AIRPORT OBSTRUCTION SURVEY

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Attached is a graphic depiction prepared by URS Corporation, the airport's general consultant, to present their findings from the FAA Part 77 Obstruction Survey that was begun last fall. The aerial diagram shows white lines to mark our regulated approach surfaces which surround the airport, and red and yellow dots to identify objects that penetrate those surfaces.

### **BACKGROUND**

This project was originally approved by City Council in the airport's FY07 capital budget (account number 443.4000.542.607001). It was proposed as one phase, but has been broken into two phases due to reduced federal and state funding.

Phase 1 is the survey portion of this project (attached diagram). At staff's recommendation, URS was authorized by City Council to determine the GPS position and graphic depiction of each obstruction that penetrates the airport's approach surfaces. The areas required to be surveyed included our primary, transitional, and approach surfaces as defined by Part 77 and other FAA regulations. The survey phase is now complete. At our next City Council meeting, staff would like to present more details about the survey and where the obstructions were found.

Phase 2 will be the actual obstruction removal phase of this project. Phase 2 proposes to remove, reduce, trim, and/or mitigate all natural and man-made obstacles that were found to penetrate the imaginary surfaces that define our approach clearances around the airport. To complete Phase 2, staff would like City Council approval to prepare a budget, pursue grant funding, design and bid the project, and eventually award a contract for this work at a future City Council meeting (late 2010 or early 2011 depending on FAA funding).

The Airport Commission discussed this item at its March 5, 2010, meeting and recommended that City Council authorize staff to proceed to Phase 2 of the project.

### **RECOMMENDATION**

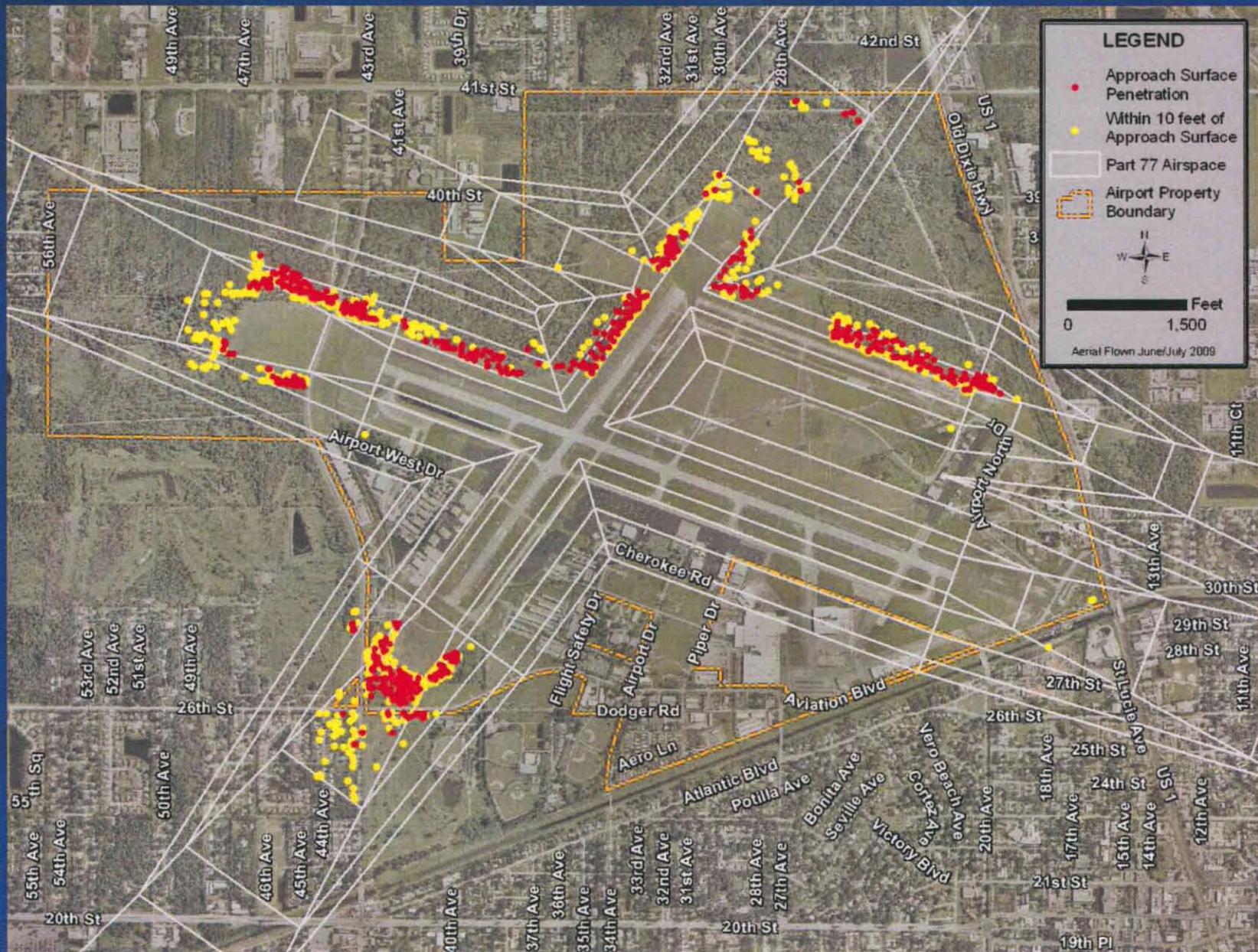
I respectfully request that this item be scheduled on the April 6, 2010, City Council agenda at which time staff and URS will make a detailed presentation on Phase 1 of this project. I recommend that City Council review Phase 1 and authorize staff to proceed to Phase 2 of this project as outlined above.

EWM/dfw

Attachment

cc: Airport Commission Members  
Joyce Vonada, City Manager's Office

# Existing Obstructions



**COUNCIL AGENDA REPORT**  
**MEETING OF APRIL 6, 2010**

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** James M. Gabbard, City Manager

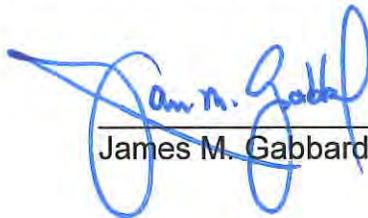
**DATE:** March 25, 2010

**SUBJECT: AWARD OF CONTRACT TO RANGER CONSTRUCTION INDUSTRIES TO REHABILITATE RUNWAY 11L/29R, TAXIWAY F AND CONNECTORS (BID NO. 440-09/CSS)**

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Attached is a memorandum from Ericson Menger, Airport Director, dated March 22, 2010, which provides background information and a recommendation on the above-referenced subject.

**It is the recommendation of the City Manager's Office that Council approve the Award of Bid 440-09/CSS for the Rehabilitation of Runway 11L/29R, Taxiway F and Connectors, to Ranger Construction Industries, in the amount of \$1,938,527.82. Funding will be provided in Account No. 443.4000.542.605001.**

  
\_\_\_\_\_  
James M. Gabbard

:jav  
Attachments

xc: Ericson Menger  
Stephen Maillet

## MEMORANDUM

**TO:** James M. Gabbard, City Manager  
**VIA:** Charles P. Vitunac, City Attorney  
**FROM:** Ericson W. Menger, Airport Director  
**DATE:** March 22, 2010  
**SUBJECT:** **AWARD OF CONTRACT TO RANGER CONSTRUCTION INDUSTRIES TO REHABILITATE RUNWAY 11L/29R, TAXIWAY F AND CONNECTORS (BID NO. 440-09/CSS)**

Attached is a copy of the approved FY2010-2014 Airport Capital Improvement Program (airfield diagram) showing a graphic depiction of the subject project (FY2010 project #1). Also attached is a copy of the Contract Administrator's memorandum to airport staff tabulating the bids for this project, and a copy of the consulting engineer's Bid Tabulation and Recommendation to Award this contract to the low bidder, Ranger Construction Industries.

### BACKGROUND

On the attached diagram, the project area is identified as Item No. 1, representing Runway 11L/29R and Taxiway F and Connectors (connecting the taxiway to the runway). This is primarily a rehabilitation project that will significantly improve the surface condition of the runway and taxiway system using a mix-in-place process in order to recycle the existing asphalt. The project also includes drainage and storm-water improvements, removal/recycling of asphalt that is no longer needed, electrical lighting upgrades using state-of-the-art LED technology to save energy, replacement of the Airport's Lighting Control System, and re-marking the pavement and/or replacement of signage as required.

At this time, all FDOT and Airport funding for rehabilitation of the entire runway and taxiway system is in place. City Council accepted \$2.4M in FDOT grants to complete the project, and awarded the engineer (Wilbur Smith Associates) a contract to design it. The project was advertised and bids were opened on March 16, 2010. All bidders supplied the information that was necessary to evaluate the bids, and all were found to be responsive.

Accordingly, the attached engineer's recommendation indicates that Ranger Construction Industries is the successful low bidder. Staff has worked with Ranger in the past on previous airport projects with satisfactory results, and concurs with the engineer's recommendation.

The current budget is as follows:

Construction:	\$1,938,528 << if awarded to Ranger
Engineering (Wilbur Smith):	\$ 327,085
Administration/Misc.:	\$ 72,915
Contingency:	\$ 661,472
<b><u>TOTAL:</u></b>	<b><u>\$3,000,000 &lt;&lt; current budget</u></b>

The project is entirely funded by state grants and airport revenues (collected from airport tenants in the form of rent and other fees). It was approved in the airport budget under account number 443.4000.542.605001.

### RECOMMENDATION

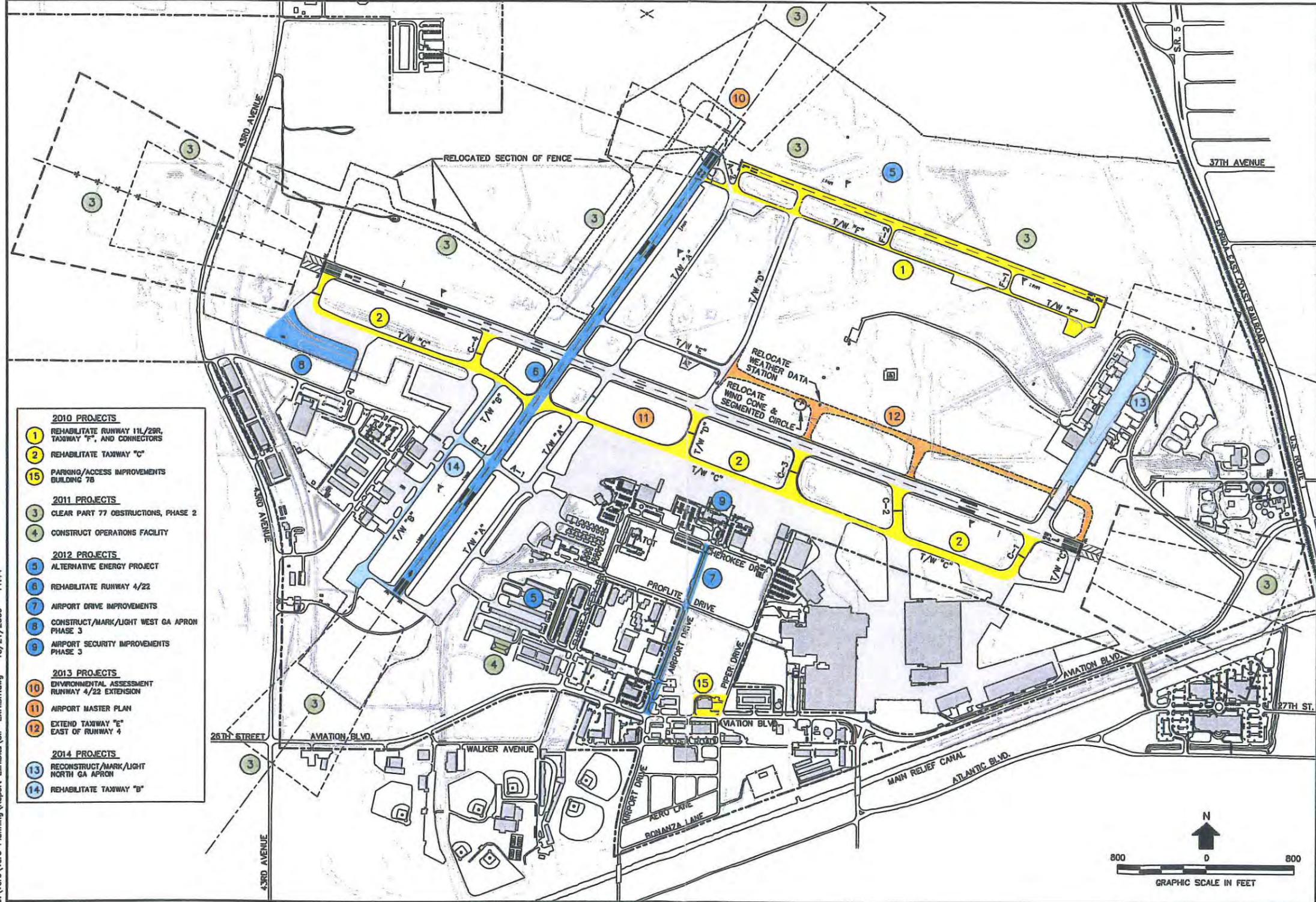
I respectfully request this item be placed on the April 6, 2010, City Council meeting. I recommend award of the bid to Ranger Construction Industries, Inc. in the amount of **\$1,938,527.82**.

EWM

Attachments (4)

cc: Airport Commission Members (email and/or USPS)  
John O'Brien, Purchasing Manager (email)  
Joyce Vonada (email)

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- 2010 PROJECTS**
- 1 REHABILITATE RUNWAY 11L/29R, TAXIWAY "F", AND CONNECTORS
  - 2 REHABILITATE TAXIWAY "C"
  - 15 PARKING/ACCESS IMPROVEMENTS BUILDING 7B
- 2011 PROJECTS**
- 3 CLEAR PART 77 OBSTRUCTIONS, PHASE 2
  - 4 CONSTRUCT OPERATIONS FACILITY
- 2012 PROJECTS**
- 5 ALTERNATIVE ENERGY PROJECT
  - 6 REHABILITATE RUNWAY 4/22
  - 7 AIRPORT DRIVE IMPROVEMENTS
  - 8 CONSTRUCT/MARK/LIGHT WEST GA APRON PHASE 3
  - 9 AIRPORT SECURITY IMPROVEMENTS PHASE 3
- 2013 PROJECTS**
- 10 ENVIRONMENTAL ASSESSMENT RUNWAY 4/22 EXTENSION
  - 11 AIRPORT MASTER PLAN
  - 12 EXTEND TAXIWAY "E" EAST OF RUNWAY 4
- 2014 PROJECTS**
- 13 RECONSTRUCT/MARK/LIGHT NORTH GA APRON
  - 14 REHABILITATE TAXIWAY "B"

VERO BEACH MUNICIPAL AIRPORT  
Vero Beach, Florida  
URS

FY 2010-2014  
5 YEAR CAPITAL IMPROVEMENT PROGRAM

FY 2010-14  
FIGURE:  
1.1

DEPARTMENTAL CORRESPONDENCE



TO: Ericson Menger, Airport Director

FROM: Carol Shoaf, CPPB, FCCM, Contract Administrator 

DATE: March 17, 2010

SUBJECT: Bid 440-09/CSS, Rehabilitate Runway 11L/29R Including Taxiway F and Connectors

In order to secure firm pricing for your department, the Division of Purchasing advertised and solicited bids on Thursday, February 18, 2010, for bid 440-09/CSS, Rehabilitate Runway 11L/29R including Taxiway F and Connectors.

On Tuesday, March 16, 2010, at 2:30 p.m., the Division of Purchasing opened bids on the above subject. Please find a tabulation and copy of the bids for your review and recommendation. Mr. Wes Teal from Wilbur Smith Associates was present for the bid opening and took his copies of the bids. Mr. Teal will be sending to you a copy of the bid tabulation, along with his recommendation.

Once you have made a decision; please provide purchasing a copy of your recommendation for our bid file.

Should you have any questions regarding this matter, please do not hesitate to contact me at ext. 5474.

cc: File

**BID TABULATION  
REHABILITATE RUNWAY 11L/29R INCLUDING TAXIWAY F AND CONNECTORS**

**CITY OF VERO BEACH BID NO. 440-09/CSS  
FDOT FM NO. 416303-1-94-01**

**SUMMARY**

**3/18/2010**

	<b>Engineer's Estimate</b>	<b>Community Asphalt</b>	<b>Dickerson Florida Inc.</b>	<b>E. J. Breneman</b>	<b>H&amp;D Construction</b>	<b>H&amp;J Contracting</b>	<b>Ranger Construction</b>
<b>Bid Schedule</b>							
Bid Schedule A	\$ 1,599,696.66	\$ 1,471,383.75	\$ 1,358,113.65	\$ 1,517,011.25	\$ 1,434,817.90	\$ 1,500,775.83	\$ 1,156,153.25
Additive Alt A-1	\$ 234,340.80	\$ 198,122.80	\$ 150,347.00	\$ 433,600.00	\$ 171,872.00	\$ 139,179.45	\$ 156,649.20
Additive Alt A-3	\$ 249,318.00	\$ 98,403.50	\$ 77,545.00	\$ 99,312.00	\$ 86,765.00	\$ 163,525.50	\$ 78,975.01
Additive Alt A-4	\$ 58,752.00	\$ 40,687.00	\$ 16,321.00	\$ 22,000.00	\$ 24,800.00	\$ 17,215.00	\$ 13,600.01
Bid Schedule B	\$ 797,391.00	\$ 442,561.50	\$ 426,124.00	\$ 576,770.00	\$ 423,705.65	\$ 447,791.75	\$ 414,606.35
Additive Alt B-1	\$ 117,000.00	\$ 72,090.00	\$ 71,100.00	\$ 85,500.00	\$ 72,000.00	\$ 74,440.80	\$ 69,480.00
Additive Alt B-2	\$ 49,064.00	\$ 49,064.00	\$ 49,064.00	\$ 49,064.00	\$ 49,064.00	\$ 49,064.00	\$ 49,064.00
<b>TOTAL</b>	<b>\$ 3,105,562.46</b>	<b>\$ 2,372,312.55</b>	<b>\$ 2,148,614.65</b>	<b>\$ 2,783,257.25</b>	<b>\$ 2,263,024.55</b>	<b>\$ 2,391,992.33</b>	<b>\$ 1,938,527.82</b>



March 18, 2010

Mr. Ericson W. Menger  
Airport Director  
Vero Beach Municipal Airport  
P.O. Box 1389  
Vero Beach, Florida 32961-1389



**Re: Vero Beach Municipal Airport  
Rehabilitate Runway 11L/29R Including Taxiway F and Connectors  
City of Vero Beach Bid No. 440-09/CSS  
FDOT FM No. 416303-1-94-01  
Bid Tabulation and Recommendation to Award**

Dear Mr. Menger:

Per your request, Wilbur Smith Associates has reviewed a total of six (6) sealed bids for the project referenced above. The bid opening took place on March 16, 2010 at 2:30 PM. After analyzing the information provided by each contractor, we determined that all bidders had supplied the information necessary to adequately evaluate the bids.

#### **BID TABULATION SUMMARY**

We have reviewed the tabulated bids provided by the City and ranked the contractors from the lowest to the highest, based upon the total of Bid Schedule A, Additive Alternate A-1, Additive Alternate A-3, Additive Alternate A-4, Bid Schedule B, Additive Alternate B-1 and Additive Alternate B-2. (See the attached spreadsheet). Additive Alternate A-2 was not included as the project design specifies the use of fill dirt provided on-site by the Airport (Additive Alternate A-2) or, the use of fill dirt provided by the contractor from an off-airport site (Additive Alternate A-3), but not both. Geotechnical testing has concluded that the Airport's fill dirt does not meet the required specifications. Subsequently, Additive Alternate A-3 was included. Please note that the bid schedules identified are inclusive of all of the work desired to be accomplished under this bid. The bids are summarized as follows:

1.	Ranger Construction Industries	\$1,938,527.82
2.	Dickerson Florida	\$2,148,614.65
3.	H & D Construction	\$2,263,024.55
4.	Community Asphalt	\$2,372,312.55
5.	H & J Contracting	\$2,391,992.33
6.	E. J. Breneman	\$2,783,257.25

All documentation required to be provided by the bidders was accounted for to include Addendums No. 1 and No. 2.

Ranger Construction's low bid is below the Engineer's Estimate of Probable Costs (\$3,105,562.46) by \$1,167,034.64 or -37.58%. The significant difference can mostly be attributed to the current economic climate. Our research has revealed that contractors are "hungry" and seem to be abandoning the inclusion within their bids of profit and significantly reducing the amount of overhead which is usually passed on to the owner. It has become apparent that contractors are quite often striving to merely keep

their people employed from project to project by foregoing profit and expansion. The unit bid prices seem reflective of direct labor costs with no mark-up or "multiplier" factored in. Additionally, many manufacturers and suppliers of equipment and materials have fairly large inventories and are providing outstanding discounts in order to entice the business of contractors so as to reduce those inventories. This seems especially evident with the electrical work associated with Bid Schedule B and Additive Alternate B-1. Of course, this approach benefits the City and the other funding agencies tremendously.

#### **DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION**

A thorough review was conducted of the DBE participation identified in Ranger Construction's bid proposal. Although a specific DBE participation goal was not required, it was evident from the documents provided that a "good faith effort" had been made to secure as much DBE participation as is practical for this type of project. As anticipated, WSA felt the items of work which are not specialized would include those such as sodding and erosion control, which is the case here. The value of the DBE participation is \$71,120.00, or 3.6% of Ranger Construction's bid amount. Verification of the claimed DBE status by the subcontractor listed in the bid documents was made with the Florida Department of Transportation's (FDOT) Equal Opportunity Office which administers the Department's DBE Program.

#### **RECOMMENDATION FOR AWARD**

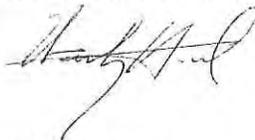
The total budget for this project is \$3,000,000, which includes the engineering design phase, bidding phase, and construction phase. This amount is based upon the Florida Department of Transportation (FDOT) multi-year Joint Participation Agreement (JPA) amount of \$2,400,000 (FDOT FM No. 416303-1-94-01), and the City's share of \$600,000.

Recognizing the funds which have either been expended or obligated for City services, design, bidding, construction administration, construction materials testing, and construction inspection, the remaining budget available for actual construction is \$2,663,275.

Should Bid Schedule A, Additive Alternate A-1, Additive Alternate A-3, Additive Alternate A-4, Bid Schedule B, Additive Alternate B-1 and Additive Alternate B-2 be awarded to Ranger Construction, the construction contract amount of \$1,938,527.82 would be below the current remaining budget amount of \$2,663,275 by \$724,747.18. Additional funds would not be required.

**Based on the above information, and subject to the availability of funds, WSA recommends award of a unit price contract to Ranger Construction Industries, Inc., which is inclusive of Bid Schedule A, Additive Alternate A-1, Additive Alternate A-3, Additive Alternate A-4, Bid Schedule B, Additive Alternate B-1 and Additive Alternate B-2, in the amount of \$1,938,527.82.**

Sincerely,  
**WILBUR SMITH ASSOCIATES**



Wesley L. Teel  
Aviation Project Manager

Enclosure

Cc: Carol Shoaf, City of Vero Beach  
LaVerne Smith, City of Vero Beach  
Todd Scher, City of Vero Beach

9A-3)

Mayor Sawnick

KS

Under Old Business:

Item

1. Councilmember's time allotment under his/her matters
2. Items pulled from consent agenda
3. Items on agenda under new business and old business  
(Back up attached)

Back up- Mayor Sawnick

KS

Item:

1. Allow councilmember 10 minutes each for correspondence, comments and committee reports, as discussed at last meeting. Other cities have similar procedures.
2. If items are pulled from consent agenda, I think it would be beneficial to have them discussed and acted upon immediately instead of waiting for them to be discussed under city manager's matters.
3. If a councilmember wants action taken on an issue, that issue shall be placed under old business or new business. If backup material is available, then it shall be provided for council.