

**CITY OF VERO BEACH, FLORIDA
SEPTEMBER 17, 2019 3:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Richard Demsick of Christ Church Vero Beach.

1. CALL TO ORDER

A. Pledge of Allegiance

Mayor Zudans led the Council and the audience in the Pledge of Allegiance.

B. Roll Call

Mayor Val Zudans, present; Vice Mayor Tony Young, present; Councilwoman Laura Moss, present; Councilman Robbie Brackett, present and Councilman Harry Howle, present **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – August 20, 2019

Mr. Young made a motion to approve the minutes. Councilwoman Moss seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – August 26, 2019

Councilwoman Moss made a motion to approve the Special Call minutes. Mr. Howle seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mrs. Tammy Bursick, City Clerk, requested that items 4A-2), 4A-3) and 4A-4) be removed from the agenda and heard at the October 15, 2019 City Council meeting. These items have to do with the property owned by the Florida Institute of Technology and is located at 805 46th Avenue.

Mr. Monte Falls, City Manager, asked that after the consent agenda items are heard that item 4B-1) be moved up on the agenda and heard before the budget hearings and if there is time that items 8-B) be heard and then item 8-A) be heard.

Vice Mayor Young made a motion to adopt the agenda as amended. Councilwoman Moss seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

1) Hunger Action Month – September 2019

Councilwoman Moss read and presented the Proclamation.

2) Suicide Prevention Awareness Month –Suicide Prevention Awareness Month

Mr. Howle read and presented the Proclamation.

**3) National Rifle Association as an Extraordinary Defender of Americans
Constitutional Civil Rights – Requested by Mayor Val Zudans**

Vice Mayor Young called for a Point of Order. He believes that the Proclamation recommendation is inconsistent with the Resolution that passed in January, 2018. He asked Mr. Turner to speak on this.

Mr. John Turner, City Attorney, said the offering of the Proclamation under consideration for issuance by Council is pursuant to Resolution 2018-06, which was adopted last year by Council, which contains a provision that requires all proposed Proclamations be submitted to the City Clerk's office four (4) weeks prior to the time that it is requested for issuance. The present Proclamation before Council was only presented approximately one (1) week before the meeting. Therefore, it is his opinion that if the City Council was to consider the Proclamation they would have to move to suspend the rules so that they can comply with the request for issuance of the Proclamation.

Mayor Zudans said this is something that they have done several times in the past when there was a short period of time that a matter came up.

Mr. Turner said it is his understanding that this has occurred and Council has gone ahead and proceeded with issuance of a Proclamation in a shorter period of time, but it is his opinion that if they were to do so under the Resolution to have an affective Proclamation, if they are going to proceed in that matter, that they would need to have a formal motion to suspend that requirement.

Councilwoman Moss said that she thinks it is more than a matter of suspending the rules or regulations. She thinks it's a matter of being asked to break the rules and regulations. For those who don't know what they are, as Mayor, and she has sent this as an email to a number of people who emailed her about this and there were many people who expressed concern both by email and also telephone calls, she shall not be signing this Proclamation, as Mayor she led the Council in its unanimous rejection of a questionable request for a Proclamation in October, 2017 and she asked the City Attorney to prepare a new Resolution regarding Proclamations. She said we, and she means this City Council

including Dr. Zudans, subsequently passed that new Resolution, which the City Attorney just cited. That Resolution respects and protects the rights of all people in our community. We, as a Council, and the community need only to follow it. She said when the government at any level fails to follow its own laws and to protect its own people, all, you and we, becomes subject to the rage, confusion, and fear that follow and that has occurred. We've gotten quite a number of emails and quite a number of telephone calls. She said that she is going to read for the public a brief passage and this is from the Resolution itself, it is on page two (2), and she urged everyone to look at a copy of it. She said this is a direct quote and to remember that we voted on this. This is not an opinion of anyone. She then read, in part, from page two (2) of Resolution 2018-06, "*generally inappropriate and unacceptable subject matter ...*" includes "*Any topic or subject matter that is issues-oriented or may be otherwise divisive in nature within the community or on which persons within the community may have differing opinions, positions, or beliefs.*" She said this (Proclamation) certainly fits that category as will be borne out by public record, all the emails that we have received, anyone can look at those and anyone can request them from the City Clerk. Also on the request, for the community, if you wish to have a Proclamation you fill out a Request for Proclamation and the person making that request is required to acknowledge "*that they have received and fully read a copy of the Councils' Proclamation policy and furthermore understand and acknowledge that the proposed Proclamation must conform with such policy.*" She said her contention is that this Proclamation does not conform to that regulation. Therefore, it is not a matter of suspending. It won't matter if it's now or four (4) weeks from now. It's just, it's we are asking to break the law, to break the rules to do something that we ourselves voted to have. She said we are legislators and to remind everyone, maybe some people don't know, this is a nonpartisan office. We are elected to a non-partisan position.

Mayor Zudans said that he gets her point. He said there are actually two (2) issues. The first issue is whether or not they hear this tonight and the second issue is whether or not this City Council deems this matter to be appropriate.

Councilwoman Moss asked Mayor Zudans if he wants to read it because it hasn't been read yet. She said that she is in favor of free speech and she would like the people that don't know what is actually in it ...

Mayor Zudans said that he would read it at her request.

Councilwoman Moss continued stating then she is going to ask that they have public comment on this because they have a lot of people in the audience who are here to comment on it.

Mr. Turner said an additional option that is available to Council is a motion to table, which is not debatable; it does require a second and requires a majority to carry.

Councilwoman Moss said she appreciates that, but everybody is here tonight.

Mayor Zudans said as to the first issue of do they delay this, the rule is that yes, it was less than four (4) weeks and he knew that when he submitted it, but they have done that many times in the past for benign things, such as the Police Accommodations because they didn't want to wait a month to give them recognition. He said this is either going to be heard tonight or it is going to be heard in four (4) weeks. He personally thinks that they should just move past that particular issue and go onto the second issue, which is do they accept this as a valid Resolution. He said he would like to discuss that.

Vice Mayor Young called for a Point of Order. He said seeing as how the Mayor authored the recommendation for the proposal, he feels it is appropriate under Robert's Rules of Order that the discussion be moved away from the individual that authored it.

Mayor Zudans said that he didn't think there was any conflict of interest in him running this meeting so he declined.

Mr. Turner said the Mayor under the City's administrative guidelines is entitled to debate, submit motions, second motions, etc. But, if the Mayor as the head of this body, feels that he is invested in the issue or his impartiality might be at question, he has the option to pass the gavel to the Vice Mayor to lead the discussion if he feels that appropriate. He said that is the Mayor's call.

Mayor Zudans said that he didn't find that to be necessary.

Mr. Brackett said that he is a strong supporter of the second amendment. He said that he doesn't have a problem with the content of the Proclamation. The problem that he has is that they have a rule. He would like to do this in a different manner so that they don't violate their rules. He said that he is probably the only person at the dais who is a Federal Firearms Licensed (FFL) Dealer so he is a proponent of the second amendment and he wants to support this. He asked how can they do this without it being in Proclamation form.

Mayor Zudans said that is a good point and he would like to discuss whether it's actually a violation of the rule because he doesn't think it is. Maybe through their discussion they will come to the conclusion that they can do the Proclamation. He asked would the alternative to a Proclamation be a Resolution.

Mr. Turner said a Resolution could be offered.

Councilwoman Moss asked for what purpose. She said for the community, our oath of office, we take an oath to uphold the Constitution so they don't need to have a Resolution to uphold the Constitution. We take an oath when we are sworn in to do that. She doesn't see a need to double down on that. She has already sworn to it.

Vice Mayor Young said what is relevant is if the Council feels that this is in violation of the Resolution that was adopted last January.

Councilwoman Moss said that she believes it is.

Mayor Zudans made a motion that they waive the four (4) week rule to discuss whether or not this Proclamation is in violation of their Resolution and then they can decide whether they are going to proceed with a Resolution in the next vote or if they are going to change it to something else or figure out what the resolution is.

Mayor Zudans asked is that acceptable to everyone or do they want to enforce the four (4) week time limit.

Councilwoman Moss answered no.

Mr. Howle said this could be any kind of a Proclamation and they may or may not decide to waive that four (4) week period of time. He said that he doesn't care if they talk about it today or if they talk about it four (4) weeks from now.

Councilwoman Moss said they have a motion on the floor so they need to take public comment.

Councilwoman Moss seconded the motion to waive the four (4) weeks and discuss it today.

Mayor Zudans explained that public comments is limited to whether or not they should waive the four (4) week time limit. They are going to get into the other stuff before there are any other votes.

Mr. Brian Heady said Mr. Mayor, you and everybody in this room probably knows what this is really about, the attempt to not do this Proclamation. He said what it is really about is you (Mayor Zudans) writing a letter that you absolutely had a right to write and absolutely had a right to identify yourself.

Ms. Kay Caylor (spelling may be incorrect) said the one thing about waiving the four (4) week rule here and suspending the rule is that the same thing was being offered by Mayor Zudans at their Republican Club. She said he made a move to make the same Proclamation, it was ruled out of order, and it was so noted. At that time he wanted to know if they could suspend the rules and was told no, the rules could not be suspended. Then the next alternative came along that they do a straw or a hand vote. She said at that point it is not a Proclamation and it hasn't been voted on to be a Proclamation so it looks to her that he has an agenda, wants it passed, and he is willing to suspend rules everywhere to try to find support. She said it should be denied.

Mayor Zudans said the result of the straw poll of the Republican Executive Committee was overwhelming support.

Ms. Caylor said no, it was not.

Mayor Zudans said it was, he was there.

Ms. Caylor said that she was at that meeting and it was not overwhelming.

Mr. Lou Bower said it appears that the consensus of the City Council is that there is a precedent for waiving the four (4) week rule. It sounds as if they have done it before. He didn't see a reason why they should be hiding behind a procedure. He said there is an elephant in the room and everyone is here to discuss it. He suggested that they proceed. He said with regard to the second part of this, which he thought was Councilwoman Moss's objection that it violated the Resolution and although he didn't read it, it appears that the crux of it was that the City Council would abstain from discussing things that could be divisive within the community. He said any issue they vote on or have discussion on could be divisive in that some people are going to be for it and some people are going to be against it. Therefore, any issue could be divisive so he would hope that the Council would not hide behind that. He suggested that they proceed.

The motion passed 4-1 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young no, and Mayor Zudans yes.

Mayor Zudans said that he does want to read the Proclamation because they have to put it into context and they are going to discuss whether this is in violation. He then wished everyone happy Constitution Day. He said 232 years ago today in Independence Hall in Philadelphia, Pennsylvania the Constitutional Convention endorsed the Constitution of the United States of America. He wanted to point out that all the City Councilmembers took an Oath of Office more than one (1) time. They took a Candidate's Oath and they also took an Oath of Office once they were elected. Also, everyone who has run for the City Council and everyone who has run for nonpartisan, nonjudicial, or the School Board has taken the same oath. He said the oath starts with, "*I do solemnly swear that I will support, honor, protect, and defend the Constitution in government of the United States and of the State of Florida.*" He then read the Proclamation into the record. He said the idea that something because it is controversial they cannot have a Resolution is a direct infringement on their freedom of speech. He said this is a travesty on Constitution Day that they are trying to block a reasonable Proclamation for an organization whose fundamental purpose is to protect elements of their Bill of Rights. He pointed out the second page of the Resolution where there are examples listed of what is an appropriate or inappropriate type of Proclamation. He said not one (1) thing on that entire page is legally binding. They are all suggestions made previously, but not one (1) bit of it is legally binding. He said that he did confirm that these are recommendations and asked are they not.

Mr. Turner said the Mayor is correct.

Councilwoman Moss said they are guidelines. They are more than a recommendation.

Mayor Zudans said there is nothing legally binding about any of those suggestions. What is legally binding is item seven (7), which is located on page three (3). He read, "*The*

Council retains the sole and absolute discretion to approve or deny any proclamation request and to modify or otherwise amend any requested proclamation notwithstanding the City Clerk has initially approved or denied such request or the requested proclamation has been included on a Council meeting agenda.” He said the only entity who decides what is an appropriate or inappropriate Proclamation is this City Council so there is no violation in any way according to this Resolution of this if a majority of the City Council decides that this Proclamation is appropriate. He asked is that accurate.

Mr. Turner answered yes.

Councilwoman Moss said that she thinks they are starting down a very bad road here. She is in violent opposition to this. She said to pardon the adjective, but it is quite appropriate in this case. She questioned what else can we expect if we go down this road. She asked are we going to send letters to Vladimir Putin, President of Russia, about foreign policy. She said we are getting into areas we have no business being in. She questioned should we send a letter to the Pope about abortion. She said this is just; you don't even want to take a single step down that road in a nonpartisan office. You don't want to do that. That is so wrong and just contrary by its very nature to the nature of this office. You do not engage in that kind of behavior and that is absolutely her position on this. She said the Resolution does state, and there are examples, with regard to divisiveness, but to her way of thinking, they are guidelines. She said yes, lawyers have a hard time saying yes or no to anything. She said that she understands that, but these are very firm guidelines. You have to give examples and ...

Mayor Zudans said our City Attorney gave a definite answer.

Councilwoman Moss said that she understands. She said he was not involved and she thinks he is doing a wonderful job and took this opportunity to thank him. She said for those who don't know, he (Mr. Turner) is their new City Attorney and the Resolution was prepared by the previous City Attorney so maybe Mr. Turner might have approached it differently and it might have been a bit tighter, if you will.

Vice Mayor Young said that he is very familiar with taking oaths and he is extremely familiar with protecting the Constitution of the United States of America. This is not a question, in his eyes, of defending liberty. What he sees here is an occasion where we, as Council, have made a decision on the guidelines and because this is a passion for an individual we are addressing this. He said they all have passions. He could go down a host of things that he thinks are travesties that are going on in the United States of America and he can bring every week an effort to bring resolutions for that, but if they look at today's agenda, they have three (3) Proclamations, five (5) consent agenda items, three (3) Ordinance changes, three (3) New Business items, two (2) Commission vacancies to address, a Finance Reserve Policy update, and Mr. Falls is going to discuss the Three Corners and a water project. He said we have more important things to do locally then focus on issues that will impact everyone instead of addressing items from San Francisco. He asked that they don't misunderstand his comments. He has a concealed weapons carry card. He said weapons are not foreign to him so don't

misunderstand that this is any conflict with the initial portions of what was brought before them. He said we, as a Body, have more important things to focus our attention on than to be distracted by an agenda from San Francisco, New York, Chicago, or wherever. He said lets attend to the things at hand.

Mr. Howle said that he is not an NRA member and he is not even a gun enthusiast, but he does have a concealed carry and he has one because he needs the protection when he needs it. He said this Proclamation is not about San Francisco; not the Proclamation, but maybe the letter was. He said it is shortsighted to think that this Proclamation is anything more than a reiteration of their Constitutional and a defense to an organization that defends their Constitutional rights against terrine. He said that he has no qualms with the Proclamation and unless they want to step all over the Constitution and alienate the conservative group of people that maybe someone might be running for office, unless they want to do that, just sign the Proclamation and it is over. That is all it says. It supports the NRA and for the people who disagree, he carries around the Constitution wherever he goes, and if they disagree and want to burn it in the parking lot, feel free, but maybe they should read it. He stands up for the Constitution.

Vice Mayor Young said the City Council's work should not be sidelined by things like this.

Mr. Howle said that he agrees they have other things to worry about, but if you (Vice Mayor Young) agree with the Constitution sign it and let's move on.

Mayor Zudans said that he understands the audience present for the meeting feels compelled to respond to what they are hearing. He said they are going to get their opportunity to speak, but it is decorum and is civilized to listen to other people's ideas and opinions and then they are going to give everyone the opportunity to speak for three (3) minutes before they vote on anything. He asked that they refrain from cheering or booing the people on the dais. They know there are differences of opinion and they are not going to make their case by being loud.

Vice Mayor Young said the matter at hand has distracted this community and has not served its interest. He said if you read the Proclamation, the final element is do you support the NRA. His concern is not so much this Proclamation. His concern is what has happened in the execution in developing this to their City.

Mr. Brackett thought the question now is not that it is here. He said they do have a lot of important matters to deal with, but the fact of the matter is that it is here, whether they want it to be here or not. He said that he is a strong supporter of the second amendment and he took the same oath everyone else did. He said that he was hesitant, but the City Attorney is telling them that this is okay and these are simply guidelines and they can do what they want to with it so he is fine with it.

Mayor Zudans made a motion that the City is going to adopt this Proclamation and deem it to be within the rules of Proclamations.

Councilwoman Moss said it is not within the rules no matter what.

Mr. Howle seconded the motion.

Mr. Brackett said that he understands what Mayor Zudans is trying to accomplish with the motion, but they have never voted on a Proclamation. They either sign it or they don't. He said that he is not opposed to citizen input, but is asking for clarification.

Mr. Turner explained that a Proclamation is an affirmative public statement by Council. He said it is going to take an affirmative vote if that is how Council proceeds. If they normally issue Proclamations without an affirmative vote that is fine as well.

Mr. Brackett said that he wants to stay on course, but he does want to have citizen input.

Mayor Zudans said there will not be any vote (withdrawing his motion) and the City Councilmembers will choose to sign the Proclamation or not sign it, but a lot of people came here to make comments.

Councilwoman Moss asked who signed the Proclamation.

Mayor Zudans said that he has signed it and Mr. Howle has signed it. He asked if anyone else on the City Council wishes to sign it. Mr. Brackett then signed the Proclamation. Mayor Zudans said that Vice Mayor Young and Councilwoman Moss have chosen not to sign it.

Mr. Heady said as an alternative, if they eliminate the reference to the NRA in the Proclamation they can pass exactly the same thing and he, as Mayor, on his stationary can send it to the NRA that they support the Constitution. He said to just leave NRA off the bottom of the Proclamation and it meets everyone's criteria. He said everyone took an oath to support the Constitution and that is what the Proclamation is so there is a way of accomplishing this without anyone walking away from this meeting being accused of not supporting their Constitution.

Mayor Zudans said that he appreciates the input. He does think there is more to it than that. He explained that what happened with San Francisco labeling the NRA a domestic terrorist organization. By that they did label five (5) million other American citizens and they did this as an official act of their government. Not as personal opinions of the people on the San Francisco Board of Supervisors and they didn't stop there. They then went on and blacklisted anyone associated with the NRA and the NRA itself from business. He said they didn't stop there. They went on to every level of government; City, State, and National to join them in this blacklisting movement, very similar to what they had done with the Sanctuary City issues. So, when the City of San Francisco did that, what we are doing is we are actually contradicting what they said. We are a bookend to what they said and we are actually telling the truth about what the NRA is. He said that he is not opposed to another Resolution and they should have done one

separately that was basically what Mr. Heady is saying, but this has a lot to do with being in response to what the NRA did. He said that he agrees with Mr. Heady and he will put together another Proclamation that is more civic, but there is a reason for this.

Mr. Heady said that he understands the reason and frankly, he doesn't care what San Francisco passed. He does care what you (Mayor Zudans) pass and he is concerned when you wholeheartedly throw the City's support to an organization that has many citizens with valid concerns about the use of guns in their Country. He said if they would just eliminate three (3) letters and just put in organizations you support, organizations that support our Constitution, then you are done without having a local controversy.

Ms. Kay Caylor, of the Moorings, believed it would have served backing for the letter and opinion to San Francisco if he (Mayor Zudans) had done a straw poll on the streets or a hand vote instead of coming to the Republican group with all his friends. She said it was an isolated Political party and there were mostly County residents and his friends instead of City residents where he wanted to get approval. She said this has not been a Republican issue, which seems like it is turning into then the Democrats feel totally different. She said your attempt to get a Proclamation voted on immediately without giving notice it is obvious where he is going with it. Two (2) weeks ago he didn't want to have a Proclamation to brag on the NRA or six (6) months or a year ago, but it was once you wrote that crude and offensive letter to San Francisco that you decided to seek some political cover for the letter that you wrote. She said you didn't get anyone's opinion before you wrote the letter and sent it, but now you are wanting everyone to say they agree with you. She said that she did notice on his (Mayor Zudans) social facebook page that said that he took a job with the NRA this year. She wondered what that means and what is his relationship with the NRA.

Mayor Zudans said that he is a lifetime member of the NRA and he does not get paid by the NRA.

Ms. Terry Domino (spelling may be incorrect) said that she found it disturbing that three (3) people signed this Proclamation and then asked for the public to participate. It would seem to her that they would want public participation before they made their decision. She asked when was the Constitution written.

Mayor Zudans said it was endorsed on September 17, 1787, which was 232 years ago today, after a four (4) month Constitutional convention in Philadelphia.

Ms. Domino said when they wrote the Constitution and said people have the right to bear arms, they were talking about Muskets. They weren't talking about AK47's. She felt that if the forefathers knew people had AK47's that could kill several people before the police or first responders could get there, they might have said something about that rather than just saying you have the right to bear arms. She said you can still defend the Constitution and not necessarily back the NRA.

Ms. Sherri Anderson pointed out that the Constitution also talks about freedom of speech, which was before there was facebook, social media, etc., and we protect those rights so it goes to follow that they might want to protect the second amendment rights the same way.

Ms. Katherine Winslow said this Proclamation is not about the second amendment. This is about the NRA and the NRA is not a defender of civil rights. It is a pact for corporate interest. It is about gun manufacturers to make money. She said the American people want safety to be paramount. The second amendment was instituted before we had a standing army and therefore, much of it is inapplicable today. Secondly, Mayor Zudans is using public office to promote his personal opinions and is wasting taxpayer's money to do so, as well as maligning innocent people in a public forum.

Mayor Zudans said for the record the NRA is a non-profit corporation.

Ms. Raelynn Murray (spelling may be incorrect) said that she has been a Republican and a defender of the Constitution since before most of them (City Councilmembers) were born. She is a firm believer in the Constitution of the United States, not the NRA. She said this is what Mr. Heady said before if you (Mayor Zudans) hadn't put in NRA or you work for the NRA, you are in the NRA, you are a Director of the NRA, it is doesn't look good.

Mayor Zudans said that he is not a Director of the NRA and he doesn't work for the NRA. He is a member of NRA.

Ms. Murray said you (Mayor Zudans) are trying to push the NRA when it is the Constitution that we should all be standing for, which they all do.

Ms. Adriana Decanter thanked the City Council for their public service. She thinks that they all need to have a process and be respectable of the process and she does think the process has gone array. She then read a letter that she sent to the City Council (on file in the Clerk's office). She thought the rules were how they were supposed to operate and now they are finding out that they are guidelines.

Mayor Zudans asked if she was only objecting to the process or to the content as well.

Ms. Decanter said that she thinks the NRA exacts a diverse set of opinions, positions, and beliefs in their community.

Mayor Zudans asked are you speaking on your own behalf or on the behalf of the Democratic Party of Indian River County.

Ms. Decanter said that she is here as a citizen of Vero Beach. She believes this is not a Republican or Democratic issue. This is a community issue that is hurting a lot of members of their community. She said that she doesn't know why they are spending

time on business that is about a city 3,000 miles away when you all have a lot of work to do.

Mr. Bob Lipton (spelling may be incorrect) thanked the City Council for suspending the four (4) week rule to show some respect to all the people in attendance for this meeting. He said his position is that the second amendment is being used as cover for policies that are endangering the safety of school children, concert attendees, etc. He feels the wording of the Proclamation is very inappropriate. He agrees that divisiveness should be a sign that it is inappropriate. He does agree with Mayor Zudans being offended by what San Francisco said. As opposed as he is to what the NRA does, it was terribly wrong for them to call them a terrorist organization. He definitely opposes the Proclamation as written.

Ms. Lindsey Ederson (spelling may be incorrect) said the plaque behind them says the City of Vero Beach. She said that she lives in Vero Beach and doesn't care what San Francisco does. She said if you (Mayor Zudans) want to personally be offended that San Francisco made a declaration against an organization that you pay to be a member of, that is your time. She said let's focus our time, resources, and taxpayer's dollars on what happens here in Vero Beach. She said no one here is putting forth a declaration that Vero Beach supports what they did in San Francisco so let's focus on Vero Beach and the health of their community. She said this is a complete waste of time. She said you have to pay to belong to the NRA, she owns a rifle and is a sports shooter, and she doesn't give the NRA money because the second amendment already supports her ability to own a rifle. She doesn't need them to tell her that is okay; the law does that. She said for you (Mayor Zudans) to make a declaration for a specific organization that you financially support is not a good use of this City's time and money.

Mr. Mike Johansen said that he joined the NRA when he was eight (8) years old. He hopes that when public input is finished that the City Council will reconsider taking another poll to at least give the appearance that the public's opinions matter.

Ms. Barbara Lipton said she is licensed to carry in the State of Florida and in the State of Michigan. She is not a member of the NRA and she doesn't feel it necessary to join an organization to carry a gun. She said that she no longer carries because of her age, but she does still have a license. She is concerned that the letter was written on City stationary instead of personal or business stationary. She said it sounded as though Vice Mayor Young was going to Chair the meeting, but Mayor Zudans is the Chair and it seemed to her that Roberts Rules of Order has not been followed. She said Mayor Zudans has been interrupting everyone and if he is the Chairman, he should not be doing that and a Chairman generally does not make a motion.

Mayor Zudans said as far as he knows Roberts Rules of Order has been followed properly the entire time and the Mayor is permitted to make motions.

Mr. Turner said that is correct.

Ms. Patty Gibbons said that she read an article in the paper that Mayor Zudans and Mr. Howell's terms will end in November. She said that she doesn't understand what this Proclamation is going to do for Vero Beach. She asked Mayor Zudans if this was his swan song. She asked what is it going to do to help Vero Beach.

Mayor Zudans said that he took the Oath of Office. He said that he does solemnly swear that he will support, honor, and protect the Constitution in Government in the United States and of the State of Florida. That was his solemn swearing of his oath and he feels like this is what he is supposed to do in defending, honoring, and protecting their Constitution.

Mr. Ken Daige thanked all the ladies who spoke today to express their thoughts and opinions. He said they heard that the Resolution is just a Resolution and Council can make changes as they see fit. He said when the Resolution was heard in 2018 they had the appropriate public hearings and public input, which he was in attendance and no one at the time had any problem with the Resolution so the community was okay with it. He said there is a lot of violence going on and he was in the military and is not afraid of guns. The NRA is a non-profit group and they have the right to their opinions. He said that he doesn't need them defending him or his Constitutional rights. There were three (3) signatures on the Proclamation so it is his understanding that it will move forward as signed. He said some of these divisive issues are not cool for the City as a whole, so it is too bad this is moving forward, but that is the Councils' pleasure.

Mayor Zudans closed public comments at 4:10 p.m., with no one else wishing to be heard.

Councilwoman Moss said that she would like to make one (1) other comment about this and it is actually a question for the City Attorney and this has to do with Resolution 2018-06. She said it has been discussed today that those are just "examples," but the community has interpreted it and she has interpreted as they are the guidelines that the Proclamations must meet. She referred to page two (2) of the Resolution stating that she thinks if they just strike the words "*examples of*" twice, where it stays, "*examples of generally appropriate*" to strike the words "*examples of*" and below that, "*examples of generally inappropriate and unacceptable subject matter,*" again to strike the words, "*examples of*" so that it becomes very clearly definitive that these things are either acceptable or they are not acceptable. As she said earlier, the current City Attorney did not write this and she thinks it needs to be tighter and as was mentioned by the community, they have been observing this. They have been following this as a guideline, as law, as so has she. She understands, they are literally on the same page. She would recommend that they delete "examples of," from that page. She asked the City Attorney, would that make it clear, that it is not just an example. She said we cannot have something that is divisive like this because it is a matter of public record that it is divisive. We have emails and other records showing that.

Mr. Turner asked is this going to be a direction of Council to review the Resolution with these ideas in mind and bring it back to Council for discussion and approval.

Councilwoman Moss said that she would like to tighten it up.

Mr. Turner asked is this the Council's desire.

Mayor Zudans didn't think that this City Council should be telling the next City Council what they can and cannot do with Proclamations. He thinks it is the duty of the particular City Council that gets elected to represent the people who voted them into office. He thinks they should just strike the entire second page of the Resolution where it gives one City Council telling a future City Council what their Proclamations should and should not be. That is really none of their business what the next City Council does. He thinks they should strike the entire second page.

Councilwoman Moss said that she thinks that they can't strike the second page because it is very specific. It outlines exactly what is appropriate and acceptable and exactly what is inappropriate and unacceptable subject matters so she believes they need that stated, but she thinks it should not be viewed at only examples, since now they are deciding it is open to interpretation and individual interpretation.

Mayor Zudans said that he understands her position and asked if she understands his position.

Mr. Brackett said it doesn't really matter because it states on page three (3), item seven (7), "*the Council retains the sole and absolute discretion ...*"

Mayor Zudans said that he thinks the whole point of the second page is worthless. He said it means nothing because the Council decides what they do and don't do. For clarification for the public, which is what Councilwoman Moss is seeking, he thinks they should cross out the entire second page and then it doesn't take any time for the City Attorney to deal with this.

Councilwoman Moss asked the City Clerk to put this on an agenda after the November Election.

Mayor Zudans asked the City Clerk to put this on the agenda for the next City Council meeting at his request.

Councilwoman Moss thanked everyone who participated in this discussion.

Mayor Zudans said that he is going to move to strike the entire second page. That will be the proposal.

3. CONSENT AGENDA

A) Sale of City-Owned Surplus Property – Greytwig Road East of Indian River Drive East

- B) Hazard Mitigation Grant Contract Modification – FEMA Project #5283-51-R – COVB Project #2017-12**
- C) Water and Sewer Materials Annual Supply Contract: Bid 050-19-Recommendation of Award (Core & Main LP and Ferguson Enterprises – Estimated Annual Expenditure: \$300,000**
- D) Permission from the Tree and Beautification Commission to expend funds to purchase a dedicatory bench and plaque - \$568.00**
- E) Ratification of the Wage Reopener Agreements between the City of Vero Beach and the Teamster’s Union Blue Collar Unit and the Clerical Technical Unit – FY 2019-2020**
- F) Ratification of the Wage Reopener Agreement between the City of Vero Beach and the Coastal Florida Police Benevolent Association, Lieutenant’s Unit – FY 2019-2020**

Councilwoman Moss said that she has a question on item 3-A) so she would like to remove this item from the Consent Agenda.

Vice Mayor Young removed item 3-B) from the consent agenda.

Mayor Zudans opened and closed public comment on the consent agenda with no one wishing to be heard.

Vice Mayor Young made a motion to approve the remaining items on the consent agenda. Mr. Howle seconded the motion and it passed unanimously.

- A) Sale of City-Owned Surplus Property – Greytwig Road East of Indian River Drive East**

Councilwoman Moss said that she has a question because it looked like the property was valued at a much higher rate a few years ago and we all know, in fact they have the budget to discuss later today, at 5:10 p.m., that property values are rising and evidently this is the only piece of property that has gone downhill fast. She said literally it has gone from being valued at \$50,000 in 2016 and she will ask the City Manager for the exact number. That is her question, at the same time the values of the City, all the rest of the properties are going up and somehow this is going down quite substantially.

Mr. Falls said you have to keep in mind that this parcel being considered tonight is an isolated piece of property that cannot be sold or developed individually. It only has use and benefit and utility to the adjacent property owner.

Councilwoman Moss said that she understands where it is, but it was valued at \$50,000.

Mr. Falls said the value is from the appraiser and the market value is what a willing buyer and a willing seller comes to terms on. He said the City offered this property for sale a number of years ago and the applicant declined the original agreed upon offer. They countered with an offer that was substantially lower and staff looked back at some

methodology they had used to take an appraised value and adjust it down because of existing easements on the site and the way the property cannot be used by others and that is where they came up with the price of \$32,000 that they are looking at today.

Councilwoman Moss said that is a little over half. It was \$50,000 at one point.

Mr. Falls said it was \$50,000 and there was no willing buyer and willing seller at that price.

Mayor Zudans pointed out that currently the City is responsible for maintaining this property. There is no prospect of ever selling it to anyone and once it is sold to that person it will be increasing their property value and that will be on the tax rolls. He asked is that accurate.

Mr. Falls answered yes. He said it would then be able to be utilized by the adjacent owner and the City would have no more maintenance responsibility of it.

Councilwoman Moss said that she is not too much worried about the maintenance responsibility. For the community, when the City owned Dodgertown, which was 35 acres, the annual mowing charge for that was under \$10,000 and that was 35 acres so she is sure this teeny tiny piece, the expense of mowing it should not be a factor in making this decision. She thinks it would be a relatively insignificant amount.

Mr. Brackett questioned if this lot cannot be used for any other purpose.

Mr. Falls said it cannot.

Dr. Sherri Anderson said this is an adjoining lot to her house. It is in the flood zone deemed to be unbuildable. She said the City Council, in 2016, actually called it useless so it is completely useless to the City, but would add great value to her property. She said that she could make this into a really nice piece of property as opposed to a dying piece of grass that people drive on, park on, and throw their trash on. She said it actually devalues her house so she and Mr. Falls came to a consensus where she is paying more than she wanted to and the City is paying less. She said the property will be very beautiful.

Councilwoman Moss said that she would take her at her word. She always has the best Christmas decorations.

Dr. Anderson promised that the property will be kept up and be very nice. She said this will raise their taxes and the City will get the revenue from the taxes and won't have the responsibility of mowing it.

Councilwoman Moss said after they take public comments she will be happy to make the motion.

Mayor Zudans closed public comments with no one else wishing to be heard.

Councilwoman Moss made a motion to approve the sale. Mr. Brackett seconded the motion and it passed unanimously.

B) Hazard Mitigation Grant Contract Modification – FEMA Project #5283-51-R – COVB Project #2017-12

Vice Mayor Young said that he would like to have some transparency on the savings.

Mr. Falls reported that the City was successful in receiving the Hazard Mitigation Grant for making improvements to the Police Department, which is also the City's Command Center during natural disasters. The original grant was for \$525,000 matched by the City in the amount of \$175,000 for a total of \$700,000. He reported that the bids came back substantially higher to replace the impact windows and doors, as well as the roof. Staff went back to the grant agency and they covered 75% of the increase in cost for another \$363,250 and the City had to match that with another \$121,000. The total in Hazard Mitigation grant funds the City will receive is \$880,252.75 with the City's match of \$296,084.25 for the total project cost of \$1.18 million.

Vice Mayor Young made a motion to approve the hazard mitigation grant contract. Mr. Brackett seconded the motion and it passed unanimously.

At this time, the City Council heard item 4B-1) on today's agenda.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) An Ordinance of the City of Vero Beach, Florida amending the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation from RL, Residential Low (up to 6 units/acre) to RM, Residential Medium (up to 10 units/acre) to RM, Residential Medium (up to 10 unit/acre) for property located at 705 Azalea Lane, containing 0.27 acres more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, reported that this is an application for a Future Land Use Map amendment made by Mrs. Elizabeth M. Sorensen for the location of 705 Azalea Lane, which is located on the east side of SR A1A south of the intersection of Beachland Boulevard and SR A1A. He said that he would be going over the original staff analysis that was provided to the Planning and Zoning Board and then summarize some of the issues that he outlined in his cover memorandum to the City Council for the City Council to consider (on file in the City Clerk's office). He then

briefly went over his memorandum accompanied by a Power Point presentation (presentation attached to the original minutes). He reported that because this is a Future Land Use amendment, the application is received and reviewed by staff based on the criteria in the Land Development Code and it does go before the Planning and Zoning Board for their recommendation. He said the Planning and Zoning Board did recommend denial of this application, however it is the City Council's decision if this is adopted or not. He referred to the Future Land Use Map of the Power Point presentation. He explained that the Beachland Boulevard corridor is designated commercial, which are the properties that front Beachland Boulevard. He said there is a different land use pattern in several locations surrounding that commercial corridor. He explained that on Azalea Lane to the west of A1A is Residential High, so there are residential neighborhoods to the south. In this block there is residential low land use that abuts directly to the commercial land uses and to the north is the Northern Trust property where in 1989 a Future Land Use Map amendment was done and based on staff's recommendation at that time, the City designated the properties on the north side adjacent to Acacia Road Residential Medium, which is very similar to this request.

Mayor Zudans said that he is familiar with the area behind Northern Trust and actually knows the person who lives right next to this property. He said there is no access from Acacia onto this property. He asked will this be the same where there is no access from Azalea Lane onto this property.

Mr. Jeffries felt that would be a question for the applicant. However, it is his understanding from the application is that they are proposing not to have access directly onto Azalea Lane. He said that he would rather the applicant speak on their application because currently they are just analyzing the Future Land Use request. He said the request before staff is to build a parking lot on the property and to do that there are two (2) steps; one is to amend the land use and there is an additional request, although it has been tabled at this point pending this City Council decision, which is a zoning map request to allow the POI rezoning. He said if the City Council approves this request, he thinks there are things that could be done with the Land Development Code where they can't have their drive access to the residential streets. He said staff is looking for some policy direction from the City Council.

Mr. Brackett said the change in the Future Land Use is not changing the zoning yet.

Mr. Jeffries said that is correct. He then continued with the Power Point presentation.

Mayor Zudans said if they were to do this he wants to be sure that they were not getting drive access to Azalea and that there are some kind of requirements similar to what it looks like on Acacia so that people don't feel like they have a parking lot in their neighborhood. Having seen this done correctly, he does not have a lot of reservation to this.

Mr. Brackett asked is it possible to do it where there is no new entrance at all; that you could get to it from the Northern Trust property. He thinks the concern is encroachment

so he wants to feel comfortable that they can limit this to A1A frontage or something. He asked how could they do this.

Mr. Jeffries said in terms of limiting the creep, they could amend the Comprehensive Plan by adding a policy that is more specific about that transitional area.

Councilwoman Moss said they are talking about amending a future use, if she understood it correctly, but not rezoning tonight. She asked did she understand that correctly.

Mr. Jeffries explained that the request before them is a Future Land Use Map amendment.

Councilwoman Moss questioned and that is separate and distinct from rezoning.

Mr. Jeffries said that is correct.

Councilwoman Moss asked what is the reason to change the Future Use if they are not going to rezone.

Mr. Jeffries said the applicant did have a corresponding application for the rezoning, but requested to table it until they heard from the City Council on their decision on this request.

Councilwoman Moss asked would it be fair to say then that any change in the future use for this property would be linked to or is linked to a change in zoning.

Mr. Jeffries answered yes.

Mr. Brackett said they would still have to come back before the City Council to change the zoning.

Councilwoman Moss said she understands they will come back, but questioned you are not going to do it just to do it. They are linked. This is a step in that direction.

Mr. Jeffries said that is correct.

Vice Mayor Young said that he is looking beyond the barrier island. He asked if this is approved, is it precedence for that application for anywhere within the City.

Mr. Jeffries said no. He explained that each application are on an individual basis.

Councilwoman Moss said that is a legal question too.

Mr. Brackett said it has already been done with Northern Trust.

Vice Mayor Young said this would translate, for example, extrapolation to McAnsh Park.

Mr. Jeffries explained that there are different sets of policies and objectives they have to look at when it comes to the west side of the City.

Mr. Barry Segal, Attorney for the applicant, noted that the Project Engineer, Mr. Joe Schulke is present for tonight's meeting as well. He said with regards to the precedent question, Mr. Jeffries is correct in that they are all going to be done on a case by case basis. Otherwise, he would stand up here and say they did it for Northern Trust and this is the exact same situation on the other side of the intersection and they have to give it to him. He said he does not believe that to be the case at all. There is no precedent that would bind the City Council to have to do that in this situation. It also should relieve the City Council from the burden that if they do it here they have to do it elsewhere. He said they went before the Planning and Zoning Board and listened to the input from the people who spoke at the meeting so what they did was adjust this project. He showed on the screen what Vero Beach looked like when this property looked like when this property was built about 60 years ago.

Councilwoman Moss asked was it the same owner the entire time. She asked is that why you are making this point.

Mr. Segal answered no. What he is trying to say is that this property has changed. He then showed photographs of the property (on file in the City Clerk's office).

*Please note that the all photographs shown in this presentation are on file in the City Clerk's office.

Councilwoman Moss asked what year did the applicant purchase the property.

Mr. Segal said that he didn't know. If he had to guess it was probably 20 years ago, but he doesn't know. He said that he doesn't know. It could have been much more recent, but he would have to look that up.

Councilwoman Moss asked can you. She asked would you. She said you don't have to do it right this minute, but you can do it when the other attorney is speaking.

Mr. Segal said that he would be more than happy to do that. He said one (1) of the issues that people were concerned with at the Planning and Zoning Board meeting was the traffic, beautification, and the creep into their neighborhood. He then showed a photograph that showed looking down Acacia towards A1A, what the Northern Trust parking lot looks like from Acacia and from A1A. What they took away from the Planning and Zoning Board meeting and the public input was that they didn't want this property to be developed to allow access onto Azalea. He said they have committed to developing this project and removing all access to Azalea or to A1A. He said all access to and from this property would be through the existing entries to Beachland and A1A from the Northern Trust building. He said that his client will commit to not only a wall, but hedging and landscaping the outside of the wall so that it could not be seen. He said

that would be built in conformity with the existing Code and provisions for POI landscaping and buffers in that there are really detailed specific POI regulations. He said the property is very difficult to develop because of its proximity to A1A, the beach, and the Financial Center. He said if you were to stand in the front yard there is a massive amount of exhaust on a daily basis. It is not a property that is aching for development for residential use. What Mr. Jeffries stated at the Planning and Zoning Board is that this is what we refer to as a fringe property. Mr. Segal said this is a transitional property. This allows to create a buffer between A1A and the residential neighborhood. The house that is currently on the property is not doing that and it is not going to appreciate or develop because of its proximity to A1A. He said if they remove the traffic access then there is no impact to Azalea Lane. He thinks that this addresses probably almost all the concerns of the Planning and Zoning Board and from the public that spoke. He said one (1) question that was brought up was the question is this spot zoning. He said this is not spot zoning. He said they heard from the neighbor directly next door to the property and they even tried to negotiate some ideas. He said that they feel as though they have addressed all of the public's concerns and the Planning and Zoning Board's concerns. He asked that the City Council approve this land use map change.

Councilwoman Moss said it appears that the applicant has held this property since 2012 and he can confirm that if he would, so talking about the 1960's is a little fanciful in her humble opinion.

Mr. Segal said his point with the 1960's was that he was trying to show that the property has changed since the house was built.

Councilwoman Moss said but not much since 2012. She said it hasn't changed much since 2012. She said if you dispute that to please let the City Council know.

Mr. Howle said that he has served on the Planning and Zoning Board, on the Code Enforcement Board and now on the City Council. He said that he grew up on a street that had a church at the end, which did not hinder their neighborhood whatsoever. He said if this is done correctly he doesn't see any problem with what they are asking for.

Mayor Zudans asked Mr. Howle if he feels comfortable that in the process of doing this change and then changing the zoning later that the Planning and Development Director will be able to maintain control of what they are being presented.

Mr. Howle answered yes.

Mr. Brackett said that he is open to go down the road, but they have to see the final result because they have to make sure they have control in what they are asking for. He said they have to put something in place to keep the creeping from going on in the neighborhood. He said they have to be able to make sure that they protect the rest of the neighborhood if they do go down this road.

Mayor Zudans asked Mr. Jeffries if he felt that he could maintain control in the process to do what they are seeing.

Mr. Jeffries answered yes. He suggested that before the City Council finalizes any of their discussion that they take public comment.

Mayor Zudans said they will.

Councilwoman Moss said that she has a legal question for their Attorney. This is regarding the Ordinance and she is looking at paragraph four (4) and she will read it, it is just one (1) sentence. She read, "*Whereas the Planning and Zoning Board, serving as the local planning agency under Florida Statute 163.3174, after a public hearing held on July 18, 2019, finds that the future land use map amendment is consistent with relevant goals, objectives and policies contained within the City's Comprehensive Plan and made a recommendation to the Vero Beach City Council.*" She said then it doesn't give the recommendation so if you just look at the Ordinance you would have no idea what their recommendation is and she will read this also, this is from the minutes of the Planning and Zoning Board and this is on July 18, 2019, she read, "*Mr. Carroll made a motion that the Board disagrees with staff's recommendation because of the compatibility issue extending across a 200-foot right-of-way that the compatibility is single family residential adjacent and across the street and the commercial buffer on the north so he would motion that the Board denies the application (to recommend denial to the City Council). Mrs. Pelensky seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Carroll yes, Mrs. Pelensky yes, Mr. Prieto yes and Mrs. Minuse yes.*" She said so they voted unanimously against this, but you would never know that if you read just the Ordinance because it just says that they made a recommendation to the Vero Beach City Council, but it doesn't say that they unanimously voted against this.

Mayor Zudans said it was clearly stated earlier and it will be in the minutes.

Councilwoman Moss said thank you, but that is not her question, it's a legal question, but thank you. She said that she appreciates his opinion.

Mayor Zudans said no, you said that you wouldn't know and he said you would know because it was stated earlier and is in the minutes.

Councilwoman Moss said yes, that's fine. She is talking about this document though. She asked is there a way; should it be incorporated within the Ordinance because if a person read only the Ordinance it looks like, all it says in the Ordinance, "*made a recommendation to the Vero Beach City Council.*" It doesn't say made a recommendation not to do this. She said it is almost a little misleading by omission.

Mr. Turner said that he wouldn't characterize it as misleading. He said good practice is to put whatever the recommendation is in the "Whereas" provisions. He said that he doesn't know the circumstances surrounding how it happened. Normally you see it with the recommendation being set forth.

Mr. Bracket said it is not in any of the Ordinances even if they are for it.

Councilwoman Moss said if you don't look it up you would never know.

Mr. Turner said historically they have not said the outcome of the vote, but said it was considered and voted on.

Councilwoman Moss said the language states that they made a recommendation to the Vero Beach City Council. If that is all you see and that's all that is here so it is all you see, it sounds positive; you are making a recommendation and it sounds like they are recommending it.

Mr. Jeffries thought part of the issue is that staff drafts the Ordinance prior to their meeting. He said this is Vero Beach's practice that they were following, which is that the Planning and Zoning Board sees the draft Ordinances. He said they can look at changing this.

Councilwoman Moss said that she thinks if they are going to include it in the future, she would just like to know if they made a recommendation if they were for it or against it.

Mr. Jeffries said that he would work with the City Attorney's office to look at fine-tuning the process.

Councilwoman Moss said in the future she would like to have that included.

Vice Mayor Young asked if they proceed with supporting the request, the neighbor to east or the rest of the neighbors, what implications might that bear.

Mr. Jeffries said directly adjacent to them they will have a residential medium land use. What they are proposing is a parking lot that will require an additional zoning amendment.

The Mayor opened the public hearing at 7:43 p.m.

Councilwoman Moss asked don't they have the other attorney present. She asked are they going to hear both sides of it.

Mayor Zudans said that he is welcome to speak under public comment, unless that is improper protocol.

Mr. Turner said it is at the Mayor's discretion.

Mayor Zudans said if the attorney needs more than three (3) minutes he will allow it.

Mr. Warren Dill, Attorney, said the City Councilmembers are confused about what is going on tonight and he can unconfuse them, but it is going to take a few minutes to do that. He then gave the Councilmembers a copy of what he would be presenting on the overhead (attached to the original minutes). He said that he is representing Mrs. Kathleen McConvey, who owns the property immediately next door on the east side of the subject property. He said that Mrs. McConvey is seriously concerned about her property value as a result of this application. He said for those who do not know him, he has been a practicing lawyer for 44 years. He has done innumerable Comprehensive Plan amendments and zoning changes for his clients, he was the Deputy County Attorney for Palm Beach County and handled all their zoning and land use matters, he has been the City Attorney for seven (7) cities, and is currently representing two (2) cities in Indian River County so he has a little bit of knowledge about what is going on tonight. He said that he thinks the City Council is confused because there has been misrepresentation and wrong representation given to them tonight and he will explain very clearly what he is talking about. He said that he doesn't usually represent applicants, but he was called by an attorney asking him to represent Mrs. McConvey and after looking at her case he thought she had a lot of merit so he decided to take the case. He questioned why are they here today. He said the application is clear on its fact. It is a change from RL to RM, which is clear. He asked why is that on the agenda. He doesn't know. He said you don't really change a comprehensive land use classification unless you know why you want to change it. They have heard that it is for a parking lot. He questioned why does this property need a parking lot. It has been there for over 10 years. It has an approved site plan from the City of Vero Beach. It meets all the requirements of the City's Code including the parking requirements. He said that he has asked the question why they are here and no one will tell him. The application states that the intended use is to install a parking facility to support an existing property immediately north. That would tell him that is the bank building that is located on the corner. He said that he wants to explain to the City Council what their job is because the applicant has said nothing about justifying the application. They showed pictures from the 1960's and of the property in the area, but they didn't go into the City's Code to show the City Council what is required to justify this. He said you just don't change your Comprehensive Plan for the heck of it. The applicant has the burden of demonstrating to the City Council, not your staff, but the applicant has that burden of demonstrating to the City Council's satisfaction that there has been significant changes in the area and on Azalea Lane to warrant changing the Comprehensive Plan to this new transitional higher intense land use classification that allows a lot more than residential use. The applicant has to show why the area is in transition; what is there to show them that. He then showed on the screen a copy of the Future Land Use Map stating that the subject property is in the RL classification. He asked where are all the changes. He said the Comprehensive Plan has been this way for years. Across the street is a very nice landscaped parking lot that is about 200 feet away. South of that parking lot there is a small two (2) story office building that is more than 200 feet away. The corner of A1A and Beachland Boulevard has not changed in years. There has always been commercial activity on that corner. There has not been any changes there to justify this application. The applicant knew what was there when they purchased the property and nothing new has been done to the property or to the neighborhood since they purchased the property. He said the property doesn't look good

because it hasn't been maintained, which is the problem. The Planning and Zoning Board looked at this and they voted unanimously to oppose it. The Planning and Zoning Board concluded that there were no changes in the area and he thinks they concluded correctly. He said there have been no changes on Azalea Lane since the 1960's. He said what has happened on Azalea Lane that warrants this change, nothing. He said these are legal requirements that have to be met in order for the City Council to approve this. He said Azalea Lane is not going to change unless they change it and they will change it if they approve this application. He said that he heard that the applicant stated that it is not going to creep up the street, but the City Council knows and he knows that if they put RM Zoning on the corner it will creep down that street. It is inevitable. The staff reports favor RM on the north side of the street and they don't favor RM on the south side of the street. He said this matter was tabled at the applicant's request and not the Planning and Zoning Board. He questioned why was it tabled. He said it was tabled for good reason; they didn't want that other application to be before the City Council tonight. They didn't want the City Council to see in detail what was going on. They want to do it step by step and not all at once; no full disclosure. He said they figured it was easier to get the land use change and once they receive that they will come back to get the zoning. He said it should not have been allowed to let one go without the other. He said the Planning and Zoning Board took a break before this application came back on the rezoning and that is when the applicant said they wanted to table it so they did. What the applicant didn't realize was that under Parliamentary procedure when you table something you lose control over it. He said this belongs to the Planning and Zoning Board now. It doesn't have to come back to the City Council if it doesn't surface off the table by a motion. He said they could withdraw and file another application, but they can't bring back the original application without the Planning and Zoning Board approving it. He said they used the parking lot as a backup for this application so he gets to talk about a parking lot too. He then showed on the screen Exhibit B. He said it states, *the intended use of the property is to install a parking facility to support the existing property immediately next door.* He said right above that it states, *this property's use,* meaning the subject lot, *"can actually be used to support the adjacent commercial properties,"* meaning the bank building. He said that is absolutely not true and he will show them why. He said that he will show what in their Comprehensive Plan the RM district can be used for. He said it can't be used for a commercial parking lot on an adjacent lot with different zoning. He then showed on the screen Exhibit C. He said it states Section 1.5, *the residential land use application shall be applied to areas of the City that are suitable for single family, duplex, or multifamily with moderate densities...* He said it then goes on and states *areas that are a transition between single family- detached and more intensive uses.* He said this area is not in transition and nothing has changed. He continued, *This land use category shall allow single family, duplex, multi-family, residential development, educational facilities and support community services ancillary to the development, support community services ancillary to the residential uses ... shall be allowed if listed, stating this is very important, if listed as a permitted use ... in the applicable underlying zoning district.* He said so in order to have a parking lot to service another piece of property it has to be listed as a permitted use. He submits that it is not listed. He then showed on the screen, Exhibit E stating that these are the permitted uses in the zoning district they are going to be asking for. He said there is nothing on this page that states

they can have a commercial parking lot for a property adjacent to a property that is being used for POI Zoning. He read Section 62.19 (b), *“All uses not specifically identified in section 62.18 shall be prohibited.”* He said it is unfortunate that their idea can’t work. The City’s Code does not allow it. He said in staff’s report, it states that they are using this land use classification as justification for parking behind the building. He said pursuant to Objective 9, which is the Beachland Boulevard corridor, it states in Policy 9.2 *commercial development such as office uses cannot occur on Azalea ...* He said that is a correct statement. He continued, *except for parking lots for the adjacent commercial development with access to Beachland and not commercial access on Azalea.* He said they are going to be hard pressed to find that wording in that land use classification. He referred to Exhibit D. He said it doesn’t say except for parking lots with Beachland access. It doesn’t say no access on Azalea. It says, *Major parking areas located behind buildings ...*

Mayor Zudans said they understand his arguments. He asked Mr. Dill to summarize.

Mr. Dill said that he appreciates their time, but cannot justify this in one (1) minute.

Mayor Zudans thought that Mr. Dill’s main point was that it is not allowed in the Comprehensive Plan and he would like to hear the response from the applicant. He asked Mr. Dill if there was anything else that he wanted to emphasize.

Mr. Dill said it is clearly not allowed in the Plan and if they look at Exhibit G, the staff gives them all the reasons to deny this.

Mayor Zudans said that he knows they are under public comments, but he would appreciate the Planning Director and or the applicant to respond to the primary issue of this idea of a parking lot with access to Beachland Boulevard permitted.

Mr. Jeffries said yes it is and it has been done before with Northern Trust where they have the Residential-Medium land use and POI zoning behind it. He noted that parking lots are site features and not uses so this would be a site feature and/or accessory use to the primary use.

Mr. David McNab (spelling may be incorrect) referred to the statement that what is being proposed here happened at Northern Trust. He said if he is correct in this, the Northern Trust building and the parking lot is on one (1) piece of property.

Mr. Jeffries said it is his understanding that it is one (1) piece of property with two (2) zonings. He said this applicant will do the same if this goes through. He explained that if this goes through they would combine the properties.

Mr. David McNab said this is two (2) different pieces of property so it would be like him wanting to put in a parking lot next to a liquor store that he has nothing to do with. His initial reason for coming tonight was that he received from a neighbor that someone wanted to change this from Residential Low to Residential Medium and implied that they

wanted to build 10 units per acre versus six (6) units per acre and yet the size of the lot confines them to building two (2) so his initial reaction was why would the City Council change this. It wasn't until Mr. Barry Segal spoke that he understood that someone wanted to build a parking lot. His concern is if they allow these owners, who basically let this property fall into disrepair, to bulldoze it and put in a parking lot they are going to have other people coming along wanting to do the same thing. He didn't know how they would stop these parking lots from popping up all over that part of town once they open the door with this one.

Mr. Brackett asked does the applicant own the building next door.

Mr. Barry Segal said the family owns that property so they would unify the title to those properties in order to do the project.

Mr. Michael Calvit said that he has been an Attorney for over 30 years and has an office and owns the building at 650 and 652 Azalea Lane. He said that Mr. Dill is right. The only way that he could get around Mr. Dill's argument is unity of title; to take the title from the lot they are trying to build a parking lot and join it with the bank building. That is not of the process here. He said they are talking about no creep, but they are siting the Northern Trust building and that is creep, it is just creep on the other side of the street. He said the City Council is the stewards of this community and it is their obligation to do what is right. He said that he is all for progress, but if they do this he could do this, as an attorney, all along A1A. He said traffic is an issue and that was an issue of the Planning and Zoning Board. He said if you think this is going to be limited to a parking lot for the bank, that is how it is being sold. What is going to happen is that it is going to go for POI and Mr. Dill told them a list of things that can happen in POI.

Mrs. Phyllis Frey asked that they pause for a moment and think about the Comprehensive Land Use Plan. She said it is a good document that starts out with a goal and asks what is the goal of the City. She then read a prepared statement.

Mr. Ken Daige said one (1) of the things that he doesn't care for is POI zoning. He said that he could take any Councilmember to his neighborhood and show them the negative affects POI has had. He said they have some serious problems with what POI has done to some really nice neighborhoods. He is concerned if they allow this that he is going to have a hard time fighting the POI and commercialism on the west side of the tracks. He said that he served on the Planning and Zoning Board for a long time and is glad that the Board turned this down. He asked the City Council to think about the rest of the streets and neighborhoods over there. If they do this tonight they will open the door down the road. He asked that they at least protect this zoning.

Ms. Jennifer Koudla (spelling may be incorrect) said that she lives in the middle of the this block. She said there are only six (6) houses on the north side and six (6) houses on the south side. It is a tiny block and is all residential. She said there are several things that have not been mentioned. The biggest problem is they have the property in question and then there are two homes and then three (3) lots. She said one of the homes was torn

down and now there are three (3) lots there all owned by a developer in Orlando. As soon as this goes Residential Medium or POI the developer is going to develop those three (3) lots to maximize his profit so this is setting a precedent. She said that she could see the owners of Sea Turtle Inn wanting to purchase this lot and put in a parking lot. She said there is no doubt this is creep. She said they purchased this home knowing exactly what they wanted to do with it, which was to put in a parking lot. She said previously when this meeting was going to be held there was a sign on the property letting the residents know there was going to be a meeting on September 3rd. She said the meeting was changed because of the recent hurricane, but the sign was not replaced to notify the residents of tonight's meeting. She said that the residents did receive a letter from Mr. Jeffries, but they were only given maybe eight (8) or nine (9) days notice, which was not time for her neighbors to fly down to represent their two (2) properties that they purchased as a retirement home. She said that she and her husband have lived all over the Country and chose Vero Beach because they have family here and they purchased this home as their retirement home. She said they are very upset about this. If they change this, that lot is going to go commercial and they are going to have to move. She said the Planning and Zoning Board unanimously denied this and that is because they had a lot more time to crux of the matter and she didn't think they have done that tonight. She wanted to know if staff actually drove down the street before giving their recommendation.

Mr. Reagan Turner said that he lives across the street from this property on Azalea Lane. He said if this were to happen and reduce his property value, he would suggest that it represents the government seizing his assets and giving them to someone else.

Mayor Zudans said that Mr. Heady's comments will be the last of the public comments on this matter.

Mr. Brian Heady said you have to give staff credit because they have managed to keep up with changes that applicants have asked for. He thanked the City Council for giving Mr. Dill over 15 minutes to speak, but said it is fundamentally wrong when they give someone 15 minutes and then bang their gavel and send somebody else packing because they spoke for three (3) minutes and 13 seconds.

Mr. Brackett said that he has a real concern not being owned by the same entity. He asked how will they pull this off when the lots are owned by two (2) different people.

Mr. Barry Segal explained that this property at one (1) point lost some of its width for the turning lane on A1A so without unifying it with the title to the other property it would not meet the minimum lot width requirement for POI to put any kind of structure on it. He said that nothing could be done with this property unless it is unified with the other property.

Mr. Brackett said he would think that they would come here with unity title. Right now they have an applicant wanting to put in a parking lot on property they don't even own.

Mr. Jeffries said this is the very beginning of this process if this continues forward. He said it is very common when someone is doing their due diligence, not in this case, where an applicant will request the change of zoning prior to them actually getting ownership. But, when they actually go to do the project this will be under a site plan.

Mr. Brackett asked what if they don't do it. He asked what if they change the zoning and then they never have a site plan for a parking lot.

Mr. Jeffries said that is where they can make some text amendments to insure that won't occur at this location.

Mr. Segal said with the existing of the property they have that failsafe in place. They cannot develop this property POI because it is not wide enough.

Mr. Brackett said they are not zoning this POI right now. He questioned what happens if they decide they want to have a two (2) unit triplex for example.

Mr. Jeffries said this is just the future land use and they would still have to go forward with the zoning. He explained that if they approve Residential Medium, one (1) option is that even though it is Residential Medium it could remain the single family zoning if nothing goes forward. Another option is they could come in with an appropriate residential district that would allow the duplex use to get the two (2) units because the R-1 zoning does not allow the duplex. Another option under the Residential Medium is the POI zoning, but that is where he is suggesting that they could put in additional provisions to protect the neighborhood in terms of office buildings being built.

Mr. Segal said they are committing to a particular use. This is not a shell game. He said they can represent that this is for a project of a parking lot that has no access to Azalea or to A1A.

Councilwoman Moss made a motion that they accept the recommendations of the Planning and Zoning Board and deny the application. Vice Mayor Young seconded the motion.

Mr. Brackett asked if they approve this tonight, they would still have to come back with the zoning.

Mr. Jeffries said that is correct.

Mr. Brackett asked why they don't just apply for the zoning now.

Mr. Jeffries said they have already applied for it.

Mr. Brackett asked why are they doing this in a two (2) step process.

Mr. Jeffries said we have to do it in a two (2) step process. He explained that there are two (2) separate applications.

Mr. Brackett said if this is approved, when it comes back before them for rezoning they will have before them unity of title and stuff in place that will protect the neighbors.

Mr. Jeffries answered yes.

Councilwoman Moss said with all due respect, the neighbors don't want to be protected. They don't want this period. They don't want this. They made that very clear by what they said here tonight and for those who didn't read the letters, we received letters basically from everyone in the block and none of them want it. She is going to request in the future, and again with all due respect, that Mr. Jeffries try to be more neutral because even the Mayor said it earlier, he said "does the City want this."

Mayor Zudans said that he doesn't know what she is talking about.

Councilwoman Moss said it's on video. It's getting late, but it's on video. It seemed as though the City wanted this and she would like you (Mr. Jeffries) to be more neutral...

Mayor Zudans said that he didn't say does the City want this. He asked Councilwoman Moss to please quote him accurately at a minimum.

Mr. Jeffries said staff did their analysis and it is justified. He said there is an issue of due process here. He explained that if an application is made staff has to review it and its is based on the Comprehensive Plan, and they have to make the professional judgement as to if it is justified. He said the Planning and Zoning Board made their recommendation and as he stated in the beginning of his staff report and in his presentation to the City Council that this is Legislative and they are hearing the reasons to approve it, the reasons not to approve it, but ultimately it is the City Council's decision. He said as staff he will follow through with whatever direction the City Council provides.

Councilwoman Moss said the neighbors definitely don't want it and this definitely can happen in other places.

Mayor Zudans said the motion is to deny the application was made by Councilwoman Moss and was seconded by Vice Mayor Young.

The motion failed 3-2 with Mr. Howle voting no, Mr. Brackett no, Councilwoman Moss yes, Vice Mayor Young yes, and Mayor Zudans no.

Mr. Howle made a motion to approve the amendment to the Future Land Use from RL to RM at 705 Azalea Lane with the provisions to be put into the text. Mayor Zudans seconded the motion and it passed 3-2 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss no, Vice Mayor Young no, and Mayor Zudans yes.

At this time, the City Council took a five-minute break.

- 2) **An Ordinance of the City of Vero Beach, Florida; Requested by Florida Institute of Technology, Inc. to annex property located at 805 46th Place East, containing 4.56 acres more or less, pursuant to the Voluntary Annexation Provisions of Section 171.044 Florida Statutes; Providing for an Effective Date – Requested by the Planning and Development Director**

This Ordinance was pulled from the agenda and will be heard at the October 15, 2019 City Council meeting.

- 3) **An Ordinance of the City of Vero Beach, Florida amending the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation of annexed property from Indian River County Designation L-1, Low Density Residential-1 to City of Vero Beach Designation C, Commercial for the Property located at 805 46th Place East, containing 4.56 acres more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

This Ordinance was pulled from the agenda and will be heard at the October 15, 2019 City Council meeting.

- 4) **An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the Zoning District Designation of annexed property from Indian River County Designation RS-3, Single-Family Residential District to City of Vero Beach Designation C-1A, Tourist Oriented Services Commercial District, for the property located at 805 46th Place East, containing 4.56 acres more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

This Ordinance was pulled from the agenda and will be heard at the October 15, 2019 City Council meeting.

- 5) **An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the Zoning District Designation from ALI-1, Airport Light Industrial – 1 to ALI-A1, Airport Light Industrial – A1, for property located at the Northeast corner of 43rd Avenue and Airport West Drive, containing 2.61 acres more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

This is a quasi-judicial hearing. The Mayor read the Ordinance by title only. There was no disclosure by the City Councilmembers. The Clerk swore in the Planning and Development Director. Mayor Zudans announced that all diagrams, photographs and other exhibits referred to during the testimony or which they would like the Council to consider must be marked for identification and kept by the City Clerk.

Mr. Jeffries reported that the site is located on the Vero Beach Regional Airport property. The airport runway is located to the north of the site and the existing Corporate Air facility is located to the east, both adjacent properties are zoned ALI-A1 for Airport related uses. The properties to the south and across Airport West Drive are light industrial developments and are zoned ALI-1 for light industrial uses. The undeveloped land across 43rd Avenue to the west of the site is zoned ALI-A2 and MPZ (Master Planned Zone). The rezoning will permit the existing fixed-base operator located on land to the east of the subject site to expand its operations. The Future Land Use Map (FLUM) in the City's Comprehensive Plan designates the subject site as I, Industrial. The ALI-A1 zoning district is listed as one of the appropriate districts under the I, Industrial FLUM designation. The I, Industrial designation allows development in areas suitable for residential, light industrial, aviation oriented, and supportive community services with maximum development intensity of 1.0 floor area ration (FAR). The Planning and Zoning Board voted 5-0 in favor of the Ordinance.

Mayor Zudans continued to conduct the quasi-judicial hearing. The applicant was not present for the meeting so there was no rebuttal. There was no public testimony given.

Vice Mayor Young made a motion that based on the competent substantial evidence presented and the applicable code provisions that the Council grants the application to adopt the Ordinance as proposed. Mr. Howle seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes, and Mayor Zudans yes.

- 6) An Ordinance of the City of Vero Beach, Florida, amending Chapter 60 (appendix, definitions) of the Land Development Regulations to revise or add the Definitions of Amusement Game or Machine, Commercial Amusement, Simulate Gambling Establishment, Simulated Gaming Device, Vending Machine and Video Arcades; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jefferies reported that this Ordinance is to revise and add definitions for amusement game or machine, commercial amusement, simulated gambling establishment, simulated gaming device, vending machine and video arcades. He has clarified the definition of video arcades as a permitted type of commercial amusement establishment and add definitions for simulated gambling establishment and simulated gaming device to clarify these types of internet cafes or gambling establishments are not permitted in the City as commercial amusement establishment. This amendment will ensure that these devices are not subject to abuse or interpreted in any manner as creating an exception to the State's general prohibitions against gambling. The Planning and Zoning Board voted 5-0 to approve the Ordinance.

Mayor Zudans opened and closed the public hearing at 8:56 p.m., with no one wishing to be heard.

Mr. Brackett made a motion to approve the Ordinance. Mr. Howle seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes and Mayor Zudans yes.

- 7) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 60, Section 60.06 (only specified uses allowed; interpretation) of the Land Development Regulations; updating the reference materials for Land Use Interpretation; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jefferies reported that the Ordinance proposes to amend Section 60.06 to revise the reference materials used for land use interpretation. The Planning and Zoning Board voted 5-0 to recommend to Council that they were in favor of the Ordinance. The justification for the Ordinance is that it provides him with the authority to interpret the Code, including determining if specific land uses are permitted in zoning districts, if it is not specifically listed as a permitted use and it is consistent with the Comprehensive Plan.

Mr. Howle asked if this would preclude the current uses that they now have in the City limits.

Mr. Jeffries explained that they do not have any active establishments in the City at this time.

Mayor Zudans opened and closed the public hearing at 8:59 p.m., with no one wishing to be heard.

Vice Mayor Young made a motion to approve the Ordinance. Mr. Howle seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes and Mayor Zudans yes.

- 8) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 10 (Amusements and Entertainments) relating to Regulations of Video Arcades; Providing for Revisions to the Definition of Video or Amusement Game or Machine; Correcting an outdated regulatory reference; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jeffries reported that this Ordinance amends Chapter 10 (Amusements and Entertainments) of the City's Code of Ordinances to revise the definitions for video or amusement game or machine and video games arcade and arcade to be consistent with the proposed definitions in the City's Land Development Code (LDC). The Ordinance clarifies the definition of video arcades as a permitted type of commercial amusement establishment and add definitions for simulated gambling establishments and simulated gaming device to clarify these types of internet cafes or gambling establishments are not permitted in the City as commercial amusement establishments. This will ensure video arcades are not subject to abuse or interpreted in any manner as creating an exception to the State's general prohibitions against gambling. It was not necessary to take this Ordinance to the Planning and Zoning Board. Mr. Jeffries did work with the Police Chief in drafting this Ordinance and he does recommend approval.

Mayor Zudans opened and closed the public hearing at 9:01 p.m., with no one wishing to be heard.

Mr. Howle made a motion to approve the Ordinance. Mr. Brackett seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes, Mayor Zudans yes.

B) RESOLUTIONS

1) A Resolution of the City Council of the City of Vero Beach, Florida, Adopting a Revised General Fund Fund Balance Policy; Superseding Resolutions 2016-17 and 2019-15; and Providing for an Effective Date. – Requested by the Finance Director

The City Clerk read the Resolution by title only.

Ms. Cindy Lawson, Finance Director, reported that this is a Resolution with a General Fund Fund Balance Policy revision that they discussed during the Budget Workshops. She noted that this Fund Balance Policy is only for the City's General Fund. All the other Funds, including all the Enterprise Funds, have their own cash reserve targets and their own Bond coverage requirements. The City originally adopted a policy governing this Fund Balance in the General Fund in 2016 by Resolution. Then when the City received the sale proceeds from the Electric Utility in May, 2019, the City Council did a separate Resolution to set aside a portion of those sale proceeds to pay for the unfunded pension liabilities in the General Fund. During the Budget Workshops the City Council directed her to revise the current policy so they would have formal restrictions on the rest of the residual cash from the electric sale so that future Councils would know the intentions that they had with regard to those monies. In front of the City Council is a Resolution that supersedes all previous Resolutions so that they have one (1) policy. It also adds a \$9.45 million committed reserve for Other Post Employment Benefits (OPEB), which is in the 2019/2020 proposed budget to pay for the residual Electric Utility costs for the health insurance for retirees. Also, the City Council wanted a substantial increase to the emergency reserves so this proposed policy increases the

reserves from \$2 million to \$5 million. Lastly, this policy sets aside the remaining \$21 million to fund capital projects including, but not limited to, stormwater, the Marina and the new Waste Water Treatment Plant, and any other capital projects the City Council desires to appropriate funds for. Sher reported that the Government Accounting Standards Board requires the City to adopt this policy prior to September 30, 2019, in order for it to count against the City's audited financial statements for fiscal year end 2019. Staff recommends adoption of this Resolution along with any changes the City Council wants to make. She said the City Council has expressed the desire to turn this into an Ordinance, which takes a little more time so staff can do that for fiscal year end 2020, as well as bring it before the Finance Commission for discussion.

Mayor Zudans thanked Ms. Lawson stating that this was part of the concern that even before the sale was finalized there were people who were saying the City had all this money and wanted to do this and that. He thinks that Ms. Lawson did a great job stating that she came up with some great ideas on how to use that money wisely, such as paying off the debt at the City Marina and the Dodgertown Golf Course, which freed up cash flow within their operating budget and a lot of other things that were very responsible. He said the Hurricane Emergency Fund moving from \$2 million to \$5 million he thinks is the minimum, which the reason is because it costs a lot more to fix things that are damaged. On top of that, FEMA has changed over the years as well. He asked has the City received any money for the damages caused by Hurricane Matthew.

Ms. Lawson said the City has almost all of their funds from Hurricane Matthew and are just now starting to receive money for the damages caused by Hurricane Irma.

Mayor Zudans said as a running City, you have to pay for all this yourself and you might receive some reimbursement to reestablish your emergency fund later on. He said during the Budget Workshops with regard to the Capital Infrastructure Reserve that is \$21 million, they had talked about when they sold the Post Office building that all that money would be going into Stormwater Management and the City Council decided they did not want to have a Stormwater Utility, but did want to take some of the money and designate it for that kind of project. One (1) of the proposals was for a rotating line of credit that was going to help with projects at the Marina, which they discussed somewhere around \$2 million. They also discussed setting some money aside for the property where the Power Plant is located. He said they know that a future City Council can go in and raid these funds, but it would look bad if they do. He said they want to set it up in a way that if you are taking money out of the Hurricane Emergency Fund everyone in the community is going to know you did that. If you are taking money out of the Stormwater Management Fund everyone knows you are doing it. He said you better have a very good reason. He asked when do they get more specific on the \$21 million and where it is going to be allocated.

Ms. Lawson explained that in the policy itself, the \$21 million will be committed for capital projects meaning that it just sits there until in future years a City Council actually appropriates it into the budget process for a specific project. She said it doesn't have a

natural way to suddenly be used. It has to be appropriated through either the budget process or through a budget amendment.

Mayor Zudans questioned if they go forward with the Marina project after the budget is complete and the City Council decides they want to put \$2 million into a rotating line of credit, they could still do that by doing a budget amendment.

Ms. Lawson said that is correct.

Mayor Zudans said but it would require a few meetings and a lot of public discussion before something like that would occur.

Ms. Lawson said there would be two (2) public hearings. She noted that the City Council has the ability to amend the budget throughout the year as they see fit.

Mayor Zudans opened and closed the public hearing at 4:34 p.m., with no one wishing to be heard.

Vice Mayor Young made a motion to approve the Resolution. Councilwoman Moss seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes and Mayor Zudans yes.

At this time, the City Council heard item 8-B) on today's agenda.

5. CITY COUNCIL MATTERS

A) NEW BUSINESS

1) Traffic Impact of Future Development

- a) Rezoning Traffic Impact Analysis for 4.70-Acre Parcel 46th Place
Rezoning prepared by Kimley Horn**
- b) Letter dated 09/28/2017 from Mayor Laura Moss to Metropolitan
Planning Organization (MPO) regarding from MPO dated 10/10/2017**
- c) Response from MOP dated 10/10/2017
Requested by Councilwoman Laura Moss**

This item will be put back on the agenda and heard in conjunction with the Marina Master Plan presentation.

2) DPZ as Consultants to the City of Vero Beach

- a) Organizational Chart of City of Vero Beach, Florida from Proposed
Budget Fiscal Year 2019-2020 First Public Hearing September 9, 2019
Attached for the convenience of all
Requested by Councilwoman Laura Moss**

This item was for informational purposes.

- 3) **City Council Election on Tuesday, November 5, 2019. Go to covb.org for election information. Contact tbursick@covb.org with any questions. Please vote!**
- a) **Voter Turnout:**
22.62% for COVB election held February 26, 2019
66.12% for General election held November 6, 2018
24.83% for COVB election held November 7, 2017
76.63% for General election held November 8, 2016
21.47% for COVB election held November 3, 2015
Source: IRC Supervisor of Elections Leslie Rossway Swan at voteindianriver.com
Requested by Councilwoman Laura Moss

Mayor Zudans stated that both of these items were not new business and should be discussed under Councilwoman Moss's matters.

Councilwoman Moss explained that there were some changes to the voters registration requirements that she wanted to let the public know about and encouraged everyone to get out and register to vote.

Councilwoman Moss made a motion to allow the City Clerk to take information from the candidate if they wish and have a one (1) page bio and their picture on the website. This is modeled after what the County Supervisor of Elections does. The motion died for lack of a second.

4) Veterans Memorial Island- Requested by Vice Mayor Tony Young

Vice Mayor Young showed a short video showing the men that have been honored for serving our country and how Veterans Memorial Island Sanctuary has been a part of that. The video is on the City's website located under "Veterans Memorial Island Sanctuary."

B) OLD BUSINESS

6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

- Public Hearing to be held on October 1, 2019 at 5:00 p.m.**
- A) **An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations to amend Chapter 62, Article III, Commercial Districts, Section 62.45 to add Animal Boarding as an Accessory Use to a permitted Veterinary Services in the C-1 Zoning District; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The Mayor read the Ordinance by title only and reported that the public hearing would be heard on October 1, 2019 at 5:00 p.m.

7. CITY CLERK MATTERS

A) Appointments to Commission/Boards

MARINE COMMISSION

There is an alternate #2 position open on the Marine Commission and there are two (2) applications on file.

Mr. Howle made a motion to appoint Mr. Keith Drewett to the Marine Commission. Mr. Brackett seconded the motion and it passed unanimously

PLANNING AND ZONING BOARD

There is an alternate #2 position open on the Planning and Zoning Board and there is one (1) application on file from Mr. Jeb Bittner.

Councilwoman Moss made a motion to appoint Mr. Jeb Bittner to the Planning and Zoning Board. Mr. Brackett seconded the motion and it passed unanimously.

8. CITY MANAGER MATTERS (include amount of expense) (Staff/Consultant special reports and information items)

A) Professional Services Agreement for Urban Planning and Consulting for Three City Properties

Mr. Jason Jeffries, Planning and Development Director, said before the City Council is the proposed contract with DPZ CoDesign. He said in August staff brought before the City Council the proposed scope and based on their feedback staff went back to DPZ with revisions, which is in the final contract before them tonight. He reported that what is being proposed is an extensive public involvement process that begins with a kickoff in November with meetings with the City Council and the public. He said DPZ would be doing an extensive communications outreach to not only reach the community members who are always involved in the public process, but to also reach out to the younger population because they are the people in the community who are not always engaged, which he felt was critical. He said they would have a website, social media, press releases, etc., to get the information out to the public. In January, they will hold charrettes at the Community Center where they will meet with different groups, which what groups they meet with will come out of the community engagement process. He noted that this would be based on the Steering Committee that would be appointed by the City Council. He noted that the Steering Committee meetings would be held here in the City Hall, but in terms of getting the community outreach the charrettes will be held at the Community Center. He said there are five (5) alternatives, where there would be a range of design options from minimal impact to the most intense; alternatives one (1)

through four (4) and the fifth is what they call their fusion between all the different alternatives that were designed from the charrettes.

Councilwoman Moss said that is not what it says. She said lets take the time to go through it, but first of all for anyone who is not aware, you can go to the City website, www.covb.org, and she recommends that they do before every meeting if you plan to participate, you can see there are documents that are uploaded. She said this currently is on the website. This is the City's Organization Chart and you will see at the top of the Organization Chart for the City of Vero Beach are the citizens of Vero Beach and just below is the City Council and there is nothing in between. She said nothing comes, or should come between the people and the City Council and the way this is set up, it will and she will tell them exactly why. She said we can go through it and it will just take a few minutes and they are very important. This is one (1) of the most important projects, if not the most important project, that they will work on. She said they are doing a lot of big things here, but this is the most important. She said frankly, she was disappointed in this because she has already said it, but is going to take the time to repeat it and she is going to read from the minutes of the August 20, 2019 City Council minutes because it applies exactly to this as well. She read, in part, from page 25 of the minutes, *"Councilwoman Moss stated that she did look through it and not a lot has changed in her opinion. The City Council, who are the elected representatives of the people fall at the very beginning and at the very end. She said in between there is some kind of a Steering Committee, which will guide the process. She said that the Steering Committee would be making a lot of key decisions and that is not transparency. She thinks that a lot of these meetings should be held publically. She said they can video tape the meetings and everyone will be invited. What she is reading sounds like these meetings are taking place behind closed doors, in small groups by people who are not elected and that is not good."* She said so let's go directly to this document; that's what we are looking at tonight; it's on the website; this has been uploaded; that's why again she encourages the public to go to the website before these meetings. This is the scope of the task, alright, and she is looking at page four (4) now (September 11, 2019 Charrette Proposal on file in the City Clerk's office). She read in part, **"Task 1: Meetings: 1 site visit & meeting with / presentation to City staff"** She said that's just the City staff. She referred to Task 2 and said now we get presentation to City Council. She said that's good. She said in Task 3 they will work closely with City staff and the Steering Committee. She referred to the second paragraph of Task 3. She read in part, *"Discussions with City staff..."* She continued to read in part, **"1. Survey: Work with City staff.."** She said you are beginning to get the idea, right, we can go through this pretty quickly. She continued, **2. Dedicated online platform: In collaboration with City Staff...3. Social Media: Work with City staff.."** She said and I am reading this. This is verbatim. This is in writing. She continued to read in part, **"4. Media Outreach: Work with City staff ...5. In-person Engagement: With guidance from City staff.."** She said then they get to the end of Task 3 and read, **"Meetings: 3 meetings with City staff .."** She said you could have guessed that, right, okay. She said Task 4 we are going onto now and this has to do with the schedule and this is pre-charrette and she is looking at the paragraph that is under the word schedule and read, *"Arrival/Outset: Though the DPZ team leadership will conduct site visits with..."* She said guess what, shout it out, City staff. Yes, you are right. She

said this is on page five (5) and let's keep going because this is important. The next page, she is looking at page six (6) now. She read, "*The proposed set of topics listed in the attached draft schedule shall be confirmed with...*" She said that's right, City staff. You got it. Alright, then we go to meetings. This is important enough. She said I have the floor, I have the floor sir.

Mayor Zudans said that he asked that when we make comments that when he asked for civility that they would not like having people shout out from the audience. He asked that she please not encourage people to shout out.

Councilwoman Moss said that's okay. Nobody's shouting. There is no room for shouting.

Mayor Zudans said go ahead and say what you want to say.

Councilwoman Moss continued to read, "***Meetings:*** *The charrette, a week-long session of multiple special-topic meetings, presentations and pin-ups with City staff ...*" and the general public." She said so that's good. You're going to be included at that point. She said Task 5, and again this is still on page six (6), this is in the end at the bottom of the first paragraph, she read, "*Following this period of time, DPZ and the Steering Committee should reconvene for an in-person meeting or work sessions to discuss the principal edits ...*" She said then we go to Task 6. She said that she is still on page six (6); this is Task 6. She said the draft report will be presented to City staff and made available to the public, so that's good. She said the meeting will be one (1) meeting/presentation to City staff. That's it, period. There is a period after that. She went to Task 7 and read in part, "*The final draft report will comprise the updated report incorporating the final round of staff comments and revisions resulting from the public reaction to the draft report.*" She said the meetings, this is the last meeting, this is it; one (1) presentation to City Council. She said that she thinks you can see there is a clear-cut pattern here. She was disappointed. She said that she thinks we can do this, but it is not reflected here. It's just, it's not here. She said this is what we are voting on and she had requested those changes be made in August, so this is something that she thinks needs to happen. She thinks as the Organization Chart makes clear, this is the citizens and City Council and there shouldn't be anybody in between, whether it is DPZ or staff. She feels very strongly about that and everything should be done in a public manner. She said regarding a Steering Committee, we are the Steering Committee. We are elected and as long as we're doing this with public notice and doing it publically and recording it, we don't need to ask Hollywood to come here. Anybody can tape something anywhere with a cell phone these days. We have the technology. It's not a big deal. She said if we want to do some free range thing we can do it, but the point is that it will be totally transparent. We talk a lot about transparency here and this is not transparency.

Mr. Brackett said as everybody knows, he wasn't the biggest fan of DPZ to begin with and he was one promoting workshops and a lot of public transparency, but with all due respect, Councilwoman Moss read one (1) sentence out of a number of paragraphs in each one of those and a lot of them refer to the public in the other parts of the paragraph.

He thinks they need to be fair about this so he would encourage, without going through and reading the whole thing again, that every member of the public go on the website and look at it because in the social media section it talks a lot about the public, not just staff. The other sections are the same way. He thinks they need to be fair about it.

Councilwoman Moss said that she stated the City Council was not included. The public is included on occasion. She said the easiest way to look at it by the way is to look at the meetings that's at the end of the tasks and who is the meeting held with. She said that she already read that so she is not going to belabor it. She did have a quick question about the finances and this is on page 1 of 18 and it is item B-2. She said it says under Professional Services, she read in part, "*A separate Notice to Proceed shall be required for each separate phase of the services to be delivered as specified in the Scope of Work...*" She asked the City Manager how does that happen.

Mr. Falls explained to manage the project affected so they can keep control over it we don't want them (DPZ) going onto one phase of a project until they finished the other so they will issue a Notice to Proceed or a Task Order for Phase 1 as outlined and when that is done they will issue another so they know what they are being billed for on each project.

Councilwoman Moss said that she wasn't sure how it related to and she is looking at page five (5), Payment in the Event of Termination. She read in part, "*In the event this agreement and work order are terminated ...professional shall receive...*" meaning DPZ "*shall payment from City for the unpaid portion, if any, of professionals' services actually provided under this agreement and the work order to the date of termination...*" She asked how would we pay ...

Mr. Falls explained that is a specific reason for issuing if they decide to get a divorce in the middle of the contract, they are not liable to pay them for the undone portions of the work.

Mr. Howle said this is not a farce for DPZ to work with staff only and somehow come up with a plan without talking with Council about it.

Mr. Falls felt that staff is the conduit. He said they are here to take care of those details. Staff is there as a buffer to give them what they need. His intent of the Steering Committee is to have seven (7) or 10 people with Mr. Jeffries and himself being on it. His recommendation is to have the City Councilmembers on the Steering Committee as well, which makes up seven (7) of the members and if the City Council wants other people on the Steering Committee to appoint them. He said that Mr. Jeffries stated in his opening remarks that it was his understanding that we wanted to be more transparent and have all the Steering Committee meetings done in the public and that would be the City Council, Mr. Jeffries, and himself as the Steering Committee sitting down in a more of a workshop type setting to discuss the ideas. He said there is no intent on staff to be some nefarious project that they are going to do. This is a big project. It is a generational project. He said they have 35 acres that they could do something really special that the

community wants, which is why they are trying to engage the community through the public outreach process and the charrette process.

Mayor Zudans said that he has been on the Board of Directors for businesses and he thinks that Councilwoman Moss is misunderstanding what the difference is between a Board of Director and Administration. He said she is basically on a Board of Directors. That is what the City Council is. They are the ones who give guidance, but they have to rely on staff to actually run the business. The City Council is not here running daily operations of the City of Vero Beach. So to the extent that it requires a person of authority to say what the City is doing, that is why they have a City Manager. He said there are only three (3) employees in the entire City who report directly to the City Council and they are the City Manager, the City Clerk, and the City Attorney. He said they are not allowed to tell staff what to do. They have to go to the City Manager and tell him what they want done. There is a difference between being administration versus being a Board of Directors and they are the Board of Directors. He said this is actually a properly drafted contract for the way this business works.

Councilwoman Moss said the mission, if she understands it correctly, of DPZ is to solicit or engage the community for their comments and their ideas so that's what they are attempting to do. Otherwise, we don't need them. She doesn't need them to come in and design something. She needs them to engage the community about this project and directly solicit input. Other than that there is nothing, she doesn't need them. She said that she did speak with the City Attorney about this and if they are going to go forward then she would request, and she will just read it because this is the result of the discussion with the City Attorney and by the way, what she read to them was from the scope of services and as she stated at the beginning, she does urge everyone to go and to read it. She wasn't misquoting. She wasn't slanting in any way. Anybody can go and read it, that is what it says.

Mayor Zudans asked is this going to be a motion.

Councilwoman Moss answered no. She said if you are going to make a motion, this is what she would want it to include so she will say it first and then you can do whatever you want to do.

Mayor Zudans said that he was just asking if she was making a motion because he wanted to hear what Vice Mayor Young had to say first.

Councilwoman Moss said no, she is not making a motion, but this is just a follow up on what she had already said and this is from the City Attorney. She didn't write this. She read, "*Scope of services...*," which is what she just referred to, "*shall include all planning and presentations of proposed development plans in public meetings with City Council and staff present. No private non-public meetings or discussions regarding the project.*" She said that's from the City Attorney. That makes her feel a lot more comfortable if they are going to go forward with this.

Mayor Zudans asked Councilwoman Moss if she is suggesting that is the City Attorney's recommendation.

Councilwoman Moss said if they are going to go forward with it. she said no ...

Mayor Zudans asked Mr. Turner was she reporting his opinion or was she reporting how she would phrase it if she wanted to do that.

Councilwoman Moss asked how does he know. She said that she told him what she wanted and asked him ...

Mr. Howle said that he wants to know the answer as well.

Mayor Zudans said you just suggested; you are stating an opinion of the City Attorney and he wants to make sure that's true.

Councilwoman Moss said she is not speaking for him. She is speaking for herself. He can speak for himself. He is an attorney.

Mayor Zudans said so that was your idea that was put into legalese by the City Attorney. He asked is that correct.

Councilwoman Moss said yes. She said yes, that's what she wanted. That's what she asked him for. He is their resource; their legal resource.

Vice Mayor Young said that he is trying to understand the process for which this is going to unfold. He felt there was a lot of focus on the Steering Committee and he expects that it will be made up of 10-12 people and that it will be a Sunshine Law requirement. He said that he wants to clearly understand what will be delivered on November 19th, which will be the kick-off presentation to the City Council because he doesn't want to see a boilerplate presentation, but wants to see what DPZ has done integrating the input from City staff so that they understand clearly the parameters what they are working on. He wants to understanding clearly who has the ball to do what with regards to community outreach. His expectation is that the management construct of that will be DPZ who will come back before the City to see if it is line with what the City expects or not. He said that he doesn't anticipate that City staff would be engaged in the direct outreach aspect of it. Also, with regards to the five (5) scenarios, he has ideas on what the scenarios are, but wants to hear from DPZ what their expectations are because his interpretation may be different than the other Councilmembers and he wants to see some specificity on it.

Mayor Zudans suggested that they bring someone up from DPZ to answer some of their questions.

Ms. Aerina Wilsa (spelling may be incorrect) said that she lives in Vero Beach and wanted to clarify that she was at one time a sub-contractor for DPZ and has taken herself out of paid position here because she really loves Vero Beach. She said that she heard all

their concerns and understands them. She said many of their answers will emerge as they progress. She said if the City Council wants to be more involved that is what they will do. She said they want to be their partner. In terms of the Steering Committee, in this community she believes if they appoint a Steering Committee of seven (7) to 12, including themselves, they are going to broaden their ability to get people to weigh in. She said the Committee is chosen by the City Council so they determine who that Committee is. The more people they have talking to a broad community the more input they are going to get. She didn't know if that answered Councilwoman Moss's question.

Councilwoman Moss said that she thinks it is good if the City Council is part of the Steering Committee because that forces the issue that everything will be public. It makes it mandatory and she thinks that is the right way to proceed.

Mayor Zudans said that he would love to be on the Steering Committee. He is going to have some free time.

Vice Mayor Young said the Steering Committee, by virtue of the City Council being on the Committee, would be under the Sunshine Law.

Ms. Wilsa said that is correct.

Mr. Brackett said the Steering Committee is nothing more than one (1) of our Commissions, which are all under the Sunshine Law.

Vice Mayor Young questioned community outreach. His expectation is that DPZ will run all of it.

Ms. Wilsa said they would run all of it. She said they will develop the website, which will be an online platform. She explained that it is citizen engagement software so it is very transparent and robust and hopefully it will compliment the in-person process of the charrettes. They will have an online platform that they can continue to communicate with links to engage people to speak up on line.

Vice Mayor Young asked what is the interface with City staff. He thinks at certain points along the way they would want to have input from the City Manager.

Ms. Wilsa said that she would be in communication every single step of the way. She said they would be posting maps where people can put pins in, they can share their ideas, they can watch surveys and polls, calendars, timelines, etc. She felt this would serve as a wonderful benchmark for the City moving forward for future initiatives. They will be able to collect data, analyze it, create a baseline of what kind of engagement they successfully achieved, etc. She said this is a highly charged and emotional issue so she wanted the best and strongest platform so that it is very transparent and something they can use in future initiatives as a baseline. She said it is her understanding that the City currently does not have a way to connect with the citizenry and this information will help.

Mayor Zudans said so as they are going through this and as they get towards the end DPZ will be able to show them analytics of the number of engagements, the level of participation, ways interacting, etc., and if possible, have some demographics of the people in the community who are engaging in the process. If they see their missing a big section of the community they could adapt their plan to bring in those people who are a part of the community, but not necessarily being engaged.

Vice Mayor Young said the initial presentation on November 19th is after two (2) weeks of engagement with City staff. He asked how she expected this to be executed. He explained that his concern is that there are certain parameters that the property will inherit just by virtue of where it is. He said there are a number of areas that will impact on how DPZ conveys the planning process to the community and he wants to be sure as they come forward on November 19th that it is integrated into where they are going as an organization.

Ms. Wilsa said that she is the communications part of this. She cannot really speak to DPZ, but this is what they do. They will engage with everybody about the different issues that exist and will make their recommendations and everyone will be consulted.

Councilwoman Moss asked Vice Mayor Young if he is asking that Council be included in Task 1. She said we're not included. The City Council is not included right now in Task 1. It says that very clearly.

Mr. Falls explained that typically Task 1 of any project is the consultant they hire gets with City staff and staff gives them all the information that is available about the project. Staff answers any questions that they have so they can prepare so when they come to the meeting they come prepared about the knowledge of the project and then they present how they are going to go forward. That is the way that he sees Task 1 happening.

Mr. Jeffries said what he expects to happen in Task 1, specifically with this project, is where DPZ sifts through all the information they receive from previous meetings, such as the Chamber of Commerce's Task Force, so they would not just have a cookie cutter presentation. They will be looking at all the data and will be able to present information based on it. Not only looking at issues of previous public meetings, such as the Recreation Commission discussing it, etc., and they will highlight the issues in the kick-off meeting in Task 2. He said they would also look at the Comprehensive Plan, the Charter, and the Zoning Code and address the issues that need to be looked at.

Councilwoman Moss said so in effect they will be telling us who they think we are in a way.

Mr. Jeffries answered no because they are going to be reviewing meetings that have already occurred.

Councilwoman Moss said that's what she means. They are going to get to know us so it is kind of in a sense a reality check so we are all starting on the same point.

Mr. Jeffries said another thing to keep in mind when you are doing a planning process you don't want to repeat what has already been done. He said they don't want them to redo the work that has already been done, but to look at the work that has been done and move forward from there.

Councilwoman Moss said that she thinks it is addressed as the Vice Mayor's question, which is that it won't be a cookie-cutter and she meant that really; that they will tell us who they think we are because they will have studied all the documents and integrated them. They will have formed an impression of us (COVB) as a starting point. She asked is that fair to say.

Mr. Jeffries answered yes.

Vice Mayor Young said the other questions that he has, and Mr. Jeffries can go to DPZ directly, to make sure they are on the same sheet of music moving forward if there was an addition for the soil survey and he wanted to make it clear that is a prerogative of the City and if DPZ anticipates that is going to be an essential element of the planning process he wants to know about it up front.

Mr. Jeffries said they don't see it right now as being essential. He said that is only if the City directs them.

Vice Mayor Young said that he doesn't want a hidden cost. He then read from page 7 of 18, Direct Project Expenses, item 2, "*City shall make direct payment to professional for properly documented cost of printing and reproduction.*" He said that he wants clarification on this. He asked how big is that. Is it confined to post development.

Mr. Jeffries said that refers to post. He explained that after DPZ has completed their work and the City wants additional copies, DPZ will provide them, but it will be at an additional cost.

Vice Mayor Young referred page five (5) of the September 11, 2019 Charrette proposal under Social Media and read in part, "*Explore working with Vero Beach Flash to see if they will partner with push e-mails to the community. Explores the use of Eventbrite and other online listing services.*" He asked Ms. Wilsa how do they handle that.

Ms. Wilsa said Vero Beach Flash is a newsletter and if this vote goes through she would be contacting them to see if they would be willing to put emails out with the calendar of dates with everything that is happening so they can reach as many people as possible. She noted that nothing is in stone. If the City Council wants her to knock something off and try something else she will.

Councilwoman Moss said it is an existing email list and she signed up for it at Downtown Friday.

Ms. Wilsa said to address Councilwoman Moss's concerns, she had originally said let's do small groups to reach as many people as they possibly can. She would say that seven (7) out of 10 people that she has spoken with do not understand they are canvassing for everyone's opinion and they are confused about what is happening so it is going to take a lot of work to reach a broad set of this population.

Vice Mayor Young said that he looked at the charrette schedule format and had ideas on how that might unfold. He asked Ms. Wilsa to address this. He asked how does she envision this unfolding so that he knows in his mind what she is anticipating will take place. He said when they state "stakeholders 1," what is that.

Ms. Wilsa said that they don't know what "stakeholder 1" is yet. She explained that would be identified based on the canvassing and interviewing as to what the issues and concerns are.

Vice Mayor Young asked will each one (1) of those days have the five (5) scenarios they are considering.

Ms. Wilsa said that she would think so. She noted that the five (5) scenarios are anticipated. They are not actual.

Mr. Falls explained that the way this contract is structured is that they have a work order that will be issued for each task. DPZ is going to sit down for the first few weeks and work with staff and gather information to prepare for their job interviews with the City Council, which is the kick-off meeting. They are going to speak with the City Council and tell them what they anticipate doing. If the City Council has questions, if they want to add a scenario or remove a scenario, or change some language, that is the time to do it. He said they can then change it as they issue the task orders. It is a fluid process and there is going to be a lot of give and take as they go through it.

Ms. Wilsa said one (1) idea she has, and she doesn't know if it is possible, is to set a survey or a poll to City customers. She said they want to reach everyone with an initial mailing and if they can use the mailing list of the City's water and sewer customers that would be great.

Mayor Zudans said Mr. Jeffries and Mr. Falls have done projects like this before. He asked if they were satisfied with the nature of this contract and with everything related to it.

Mr. Jeffries said that he is very satisfied with it.

Mr. Falls said that he is satisfied with the contract. He said one (1) of the main reasons that he decided to take the City Manager position was the prospect of being able to work on this project.

Mr. Brackett commended staff for putting the termination agreement in the contract. He wanted to clarify that they are not doing any work on the site.

Mr. Falls explained that this is a planning process, not a design construction process.

Mr. Brackett said the soil survey is something if the City decides to do it.

Mr. Falls said someone would have to give him a real compelling reason why they would need a soil survey to do the design process.

Mayor Zudans said in thinking about why they put that in the contract, they may be concerned that if there is a soil issue it might affect what they can do there and it might affect the whole planning process.

Mr. Falls said as a professional you don't want to have something that you are asked to do that wasn't covered in the contract and then there is a fight as to who is going to pay for it.

Mayor Zudans said so it is at the City's discretion.

Mr. Falls said that is correct.

Mayor Zudans opened public comments at 6:36 p.m.

Mrs. Phyllis Frey read a prepared statement.

Mayor Zudans said the contract states that if the City wants a soil test they will do a soil test.

Mrs. Frey asked is it correct that they would need the Environmental Protection Agency's (EPA) approval and permits before anything can be developed.

Mr. Falls said they would need all sorts of permits before anything could be developed on the property.

Mrs. Frey questioned is EPA one of them.

Mr. Falls explained that depending on what type of development you are going to do, the permits differ.

Mrs. Frey said then they can't move forward without EPA ...

Mayor Zudans explained that they are not moving forward on anything. They are just finding out what the public wants. That is what this exercise is. He said they are not building anything.

Mrs. Frey said but you are paying consultants for the future without a permit.

Mayor Zudans said that he would respond to her misstatement about him. He said that she stated on the record that he voted that the property be lifted from the Charter. He never said in any way that the property would be removed from the Charter. He said the property, if it is ever sold or there is a long-term lease, it requires a referendum under the Charter. He asked that she stop misstating his words.

Mrs. Frey said that he needs to be careful.

Mayor Zudans asked why. He asked if she is threatening him.

Mrs. Frey said to please not misstate her words. No, it is not a threat to him. She said that she is behind this Council and this community and she wants to have it protected. That is all.

Ms. Lucy Edison said that she is a Vero Beach resident and one (1) of the things that attracted her here is being by the water. She said that every time she goes to the beach she passes by the gorgeous structure and shares their vision for Centennial Place. She said it is an amazing structure and she thinks it should be utilized for the public. She said it is fine if there is housing there, restaurants, walkway, a boardwalk, etc. To have access to it and to have activities and places for the young. She said that river access is extremely limited here so it is extremely important for people to have access. She thinks there is a lot of misunderstanding about what the planning process is. She thinks there is a misconception that everybody is going to wake up and there is going to be a glass high rise there, there is going to be a bullet train going through there, etc. She said it not going to happen that way. These things take a very long time. It takes architects and planners to do this. This is a highly developed skill. She encouraged everyone to participate in this process, but they need experts with skills to build these things.

Mr. Brian Heady said the only development that is going to happen is if a developer with lots of money wants to come here and develop something there. He said anything that a developer would want to spend a ton of money on probably doesn't meet the narrow parameters of most of the speakers.

Mayor Zudans said that he shares Mr. Heady's concern. He hopes that the results of this process is not that it gets boxed into such a narrow definition of what can happen. With that said, he personally will be expressing that to the planners that there needs to be some input to find out what people are actually willing to do in the development so that some of their ideas of projects that they would want to invest in are in the realm of what this projects comes to be. He said the worst thing in the world would be to have a really nice set of pictures that they have paid a lot of money for and then 10 years from now this property goes the way of the Dodgertown Golf Course. He said to the extent that he is still involved in this, he is going to make sure what the public wants and that it is economically feasible at the same time.

Mr. Heady said that he wants him (Mayor Zudans) to make sure that he walks away from this meeting knowing how scary this has been today where he (Mr. Heady) came up to defend Mayor Zudans at the beginning of the meeting.

Mayor Zudans said they agree a lot. He said that just because he (Mr. Heady) exceeds his time limits doesn't mean that he doesn't have good ideas.

Ms. Amy Gallo said that she doesn't live in the City, but has been a part of the City for a very long time. She said it is very important that they rely on the wonderful staff that they have in this process. She said it looks like they have done exactly what was asked. Her hope is that they continue to rely on the wonderful staff they have. She said that she is available to serve on the Steering Committee if they are interested. She said there are a lot of people in this community who have a ton of experience so it is very important to tap into the knowledge base that exists here.

Mr. Ken Daige said the property is protected in the Charter. He said people did know what they were voting for and they voted to protect it, keep it open, and to keep it green space. The process they are talking about today was very enlightening for him to see how they stood. He said when they solicit input from City residents, County residents, and people outside the County, it is his hope that they will keep a record so the citizens will know how much input City residents and County residents had in the decisions that they make. He said that he will be asking when they are appointing people to sit on the Steering Committee, how many people will be from the City, County, and outside the County. He said at the end of day, he is sure they will have some beautiful plans from DPZ in that they are well known for what they do. But, he is going to be looking for how much land would be left for the citizenry to use for free. He said that he does understand development and recognizes a lot of the lingo that developers use, as well as consultants, to net certain results. He said hopefully it is all going to be good and he is going to be looking for what is going to be left for the City residents.

Mayor Zudans said that he thinks it is really good that it is in the Charter and that it requires a vote of the public to change whatever the use is there because that guarantees that this process has to work if they are going to do anything there. He does have a slight difference of opinion on that the public voted to keep it as greenspace. Those were the Electric Utility and the Water and Sewer Utility with no prospect of being anything different. The availability of those properties is now as new.

Mayor Zudans closed public comments at 6:53 p.m., with no one else wishing to be heard.

Mayor Zudans entertained a motion to approve the contract.

Mr. Howle made a motion for approval. Mr. Brackett seconded the motion.

Councilwoman Moss asked can they include that language. She asked did anybody object to that language.

Mayor Zudans said yes, he does.

Councilwoman Moss continued stating that the scope of services shall include all planning and presentations of proposed development plans in a public meeting with City Council and staff present. She said that was the City Attorney's language.

Mayor Zudans felt that she was putting a huge handcuff on the planning firm. What her motion to amend would actually make it so that DPZ staff could not speak with the City Manager or the City Planner.

Councilwoman Moss said no, that was not the intent.

Mayor Zudans said that might not be the intent, but that is what it says.

Councilwoman Moss asked the City Attorney if there is a better way to say it then. She said that she did get this language from the City Attorney and what she is talking about are the meetings that are referenced in these tasks, which we (the City Council) are not included and by the way, there wasn't a reference in this document at the time they received it that indicated that City Council would be included in the Steering Committee so that of course was a big concern and the fact that the City Council be part of the Steering Committee goes a long way in solving that problem. She said that she had mentioned this months ago and it was not reflected in what was submitted.

Mayor Zudans thought for the purpose of what she is asking for, he thinks has been resolved; the idea that the City Council is going to choose who serves on the Committee and all the meetings will be in the public. He said there are going to be communications all over the place, hopefully, that they want where DPZ is constantly engaging the public. He said when you say it has to be in a public meeting that means they can't have an email, etc.

Councilwoman Moss said everything is public anyway. She said everything is a matter of public record anyway.

Mr. Turner said a motion for purpose of the amended motion, they would be accepting any fact findings communication between staff and the design specialist, which would be gathering information and it is public record, but not necessarily in a public meeting.

Mayor Zudans thinks that with what Mayor Moss is proposing is jam up the gears.

Councilwoman Moss asked Mr. Turner if he is comfortable having heard this discussion that everything will be public to the extent it should be. She said you have been sitting here and you understand the legalities better than she does, it's his area of expertise. She asked Mr. Turner in his opinion, as their City Attorney, does he believe, based upon this conversation tonight, which is a matter of public record, that the public absolutely and the City Council will be included in all important decision making.

Mr. Turner said that he feels very comfortable that this process will be the most transparent than in any city that he has ever experienced when it comes to a planning activity. Based upon what Council is expecting from DPZ and what they are going to expect from staff that all issues of any importance will be in the public and discussed thoroughly. He does not have any doubts. He feels comfortable with staff, with the design team, and with the City Council leading the way.

Councilwoman Moss said that she appreciates that. She said that she is taking her advice of Counsel.

The motion passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes, and Mayor Zudans yes.

At this time, the City Council heard item 4A-1) on today's agenda.

B) Update on the Waste Water Treatment Plant

Mr. Falls explained that this item is on today's agenda in order to clear up any misconceptions about the City's plans for the Waste Water Treatment Plant (WWTP). First, and foremost, the City staff is committed to following the policy that the City sets. He reported that on February 20, 2007, the City Council voted to consider moving the WWTP off the Lagoon if grant funding was available. As a fallback position, the City Council wanted staff to consider upgrading the Plant at its current location if the Grant funding was not available. He said while recent budgets have included funding for preliminary studies relating to moving the Plant off the Lagoon, no formal action has been taken since 2007 by the City Council. On August 27, 2019, the City staff presented information to the Utilities Commission comparing the options previously outlined. In broad terms to construct a new five (5) million gallon per day Plant off the Lagoon it would be in the \$50 million capital construction range. To rehabilitate the existing four (4) point five (5) per day Plant at the existing location and upgrading the treatment capacity would be in the \$30 million range. He said the staff is committed to carry out the direction of the City Council and to further that commitment and to insure that there is no misunderstanding, staff is requested Council action to clearly establish their goal. This will let the community know that they are working together on this very important project that will affect generations to come.

Mayor Zudans thanked staff for bringing this forward. He said that he knows staff has been doing some work reviewing engineering on what was going on at the current Plant, they have had some conversations with the County about what options might be there, and they have been exploring a Plant on City property at the Airport. He asked Mr. Bolton to give the City Council an overview of those three (3) options and what the City Council needs to do next. He said that he would like the City Council to have an official policy as to where they are going so staff knows what to do going forward.

Mr. Rob Bolton, Water and Sewer Director, gave a power presentation on the WWTP (attached to the original minutes).

*Please note that questions and discussion occurred throughout the Power Point presentation.

Councilwoman Moss asked is there any part of the existing physical asset or technology that they would be using in a new location or is everything going to be completely new.

Mr. Bolton said they will probably repurpose the biosolids facility and bring to the new one some equipment and possibly some pumps.

Councilwoman Moss said then the dollar value of what would be moved is relatively insignificant. She said they always talk about moving it, but they are not really moving it.

Mr. Bolton said they would be building a new facility, not moving it.

Mayor Zudans said there was only one (1) thing that he didn't like when he came to Vero Beach, which was waterfront sewer. He is glad they are dealing with this while he is on the City Council. The other thing that he didn't like was the electric. He asked when do their bonds mature.

Mr. Bolton reported that their last payment will be December, 2021.

Mayor Zudans said then it almost worked out perfect that new bonds would be issued for this. He asked Mr. Bolton if he is anticipating that the rates for sewer service would be the same or similar to what they are currently when they issue new bonds for a new Plant.

Mr. Bolton said that it is hard to say because they have to establish an interest rate, cost sharing, the term, etc. He noted that they are going to try to keep them as low as possible.

Mayor Zudans said part of the reason it was hard to get out of the electric business was the fact that they had all the Enterprise Funds transferring money into the General Fund and he would love to see during this process that the City gets away from this policy where they are using Enterprise Funds to fund the General Fund. He said if they did something like that, if it was a standalone energy that every dollar generated by Water and Sewer went back into maintaining the pipes, etc., and they would have rates for the users, both City residents and County residents. He felt this was something they should look at while going through this process. He said that he really would like to see some future ability to get away from the idea of the government making a profit off of one thing and using it to fund the General Fund.

Mr. Falls suggested that they table this item at this time and go on to the Budget Hearing.

The City Council took a break from today's regular City Council meeting at 5:01 p.m.

The regular City Council meeting reconvened at 5:28 p.m.

Mr. Bolton continued his Power Point presentation. He felt now was the time to make a policy decision so they can abandon the idea of hardening and move forward with a new facility. His recommendation is to go with the MBR facility although they are a little more expensive, it is a state of the art facility capable of doing much more than what the current regulations are.

Mayor Zudans asked what was the opinion of the Utilities Commission.

Mr. Bolton said they never got to that point because they started looking at financing and wanted some updates. At that point, he agreed to bring it back before them. However since then there have been articles saying things staff wanted to get a policy decision from the City Council.

Mayor Zudans said it is his desire to have a motion that it is the policy of the City of Vero Beach to proceed with building a new Plant.

Mr. Howle said all they need to do is give staff direction. They don't need to take a vote.

Mayor Zudans said that he would like to have an official policy decision. He thinks this is worthy of the City Council going on the record that this is the policy of the City of Vero Beach.

Vice Mayor Young asked would that be helpful for staff.

Mr. Bolton said that he thinks that sets it in stone and there is no question as to what their direction is and they can move forward.

Mr. Falls felt that shows to the community that they are working together to complete that goal.

Mayor Zudans made a motion that it is the policy of the City of Vero Beach that we will be building a new Sewer Treatment Plant at the Airport.

Mr. Brackett said they know roughly what the cost is going to be, but they don't know about the financing yet and what that is going to do to the rates.

Mr. Bolton said there are a lot of moving parts to this that will reduce the bonding cost for this as they move forward. He said after the motion staff would do a preliminary design report, convert what is in the report and convert it into something that he can apply for permits, which at that time he can go after grants, SRF Funding, etc.

Mayor Zudans said a policy decision is not that they just bought the Sewer Plant. It is that this is the mission that it is the will of the City Council that they build a new Plant.

Councilwoman Moss asked if they make a policy decision tonight, what would he see as being the timeframe for this. She asked roughly what year does he think the new Plant would be in operation and for how long does he think the new technology would be of value to the City.

Mr. Bolton said if they go with an MBR Plant they will have technology that is good for 30, 40, or 50 years.

Councilwoman Moss said so there is a real value to having new technology. It will stand us in good stead over a long period of time well into the future. She asked when can we expect a new Plant to be completed.

Mr. Bolton said they would hope to be looking at awarding a contract to start construction in January, 2022, which is after the last bond payment of December, 2021. It would take two (2) to two (2) and a half years of construction and then they would have the startup and testing of six (6) months so they would be looking at the year 2025.

Mr. Howle said that he has one (1) goal in this and that is to get the environmental threat off the river, as well as to make the land more aesthetically pleasing and better for the community; better use of the land. At the end he wants the Plant to be moved and to him there are only two (2) options to get that done. One option is to build our own facility and the other option, and probably the cheapest for the City, would be to allow the County to take care of it. However, that would hinge on the County's capacity, their cost to hook up, etc. He asked Mr. Bolton if he has had any talks with the County.

Mr. Bolton answered no. He said if they continue down this path he will go back and talk with the County. He said the County is in a huge development mode right now so it would be a question of what their capacity is and then it becomes a question of how they would split the flow. He said that he is willing and he will have conversations with the County.

Mayor Zudans amended his motion that the official policy of the City of Vero Beach will be that we are going to move the Sewer Plant off of the Lagoon, we are going to proceed with the concept of the MBR Plant on the Airport site, and we are going to continue to communicate with the County about an alternative non-waterfront site.

Mayor Zudans said the policy instruction is they think they are going to the Airport, but they don't want to not explore all the other options if it is going to be less expensive to taxpayers and meet the needs of their community. He said the City Council really wants staff to be communicating with the County government to make sure that they are not making a mistake by building a Plant themselves when it would have been more efficient to team up with the County.

Mr. Falls said they do have a Water and Sewer Utility and they just have had experience in selling their Electric Utility. He would hope that they would be looking at the same process if they are getting out of the Water and Sewer business which would be to sell the Utility, which would be part of the discussion they have with the County.

Mayor Zudans said it might result in a sale, but the last time this was discussed there was no interest in paying the City a penny from the County.

At this time, the City Clerk read back the motion.

Mayor Zudans said that would still allow a sale, a merger, etc.

Mr. Brackett seconded the motion.

Mayor Zudans opened public comment on this item at 5:45 p.m.

Mrs. Jane Burton, Chairman of the Utilities Commission, said the motion they just made will make the Commission's job more streamlined because now they will not be looking at so many different options. She said one reason the Commission was asking questions and were not able to come up with a sound recommendation is because they were following the 2007 policy. She said this will allow them to move forward more quickly and will make their job easier.

Mrs. Brooke Malone said they should do whatever it takes to be the preeminent in technology in this area to set a precedent and put themselves on the front end of the best available for this community and for this river. She said they can sacrifice a lot of other things and save our environment first is important. Whatever technology recommendations are made, even if they are more expensive than everything else, they should do that for the State of Florida and for their City.

Mayor Zudans said the cool thing about membranes is when new membrane technology comes out instead of replacing the Plant you are putting new technology membranes. He thinks that this is the right path.

Mr. Brian Heady said that he thinks they would all agree that the primary focus is to get the aging Plant off the river. He said that he understands that and does not have any objections. Then there was discussion about whether or not the County would be interested in buying it. He remembers in 2007 – 2009 where there was discussions about selling another utility and they ended up locking the City into a negotiation that restricted City employees, staff, and Elected Officials from negotiating any other deal with anybody other than Florida Power and Light (FPL). He asked that if they have an intent of selling the Utility to please not limit the sale only to one (1) bidder, the County. He said if they are going to sell it there are companies that run water and sewer utilities and at the very least open it up for more bids and not to stick themselves in a box where they don't have the authority or legal rights without torturous interference and other legal principals coming in and they wind up getting sued.

The motion passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes, and Mayor Zudans yes.

At this time, the City Council heard item 8-A) on today's agenda.

9. CITY ATTORNEY MATTERS

Mr. Turner reported that Corporate Air wanted the Airport Director to execute some documents that he is not comfortable with. He wanted to bring this to the City Council's attention and will be working with Corporate Air and their lender to get this satisfied and to protect the City.

Mayor Zudans told Mr. Turner to do what he can do to help them as long as the City's rights are protected.

Mr. Falls reported that there will be a public parking study meeting held on September 24th at the Holiday Inn and the public is encouraged to attend.

10. PUBLIC COMMENT (3-minute time limit)

Mr. Brian Heady said that he was looking on line and there was a City of Vero Beach letter and it was signed by the Mayor and there was no public discussion about that letter before the Mayor signed it. He said he has no problem with Councilwoman Moss signing letters when she was the Mayor. That is fine that she authored some letters when she was Mayor and she sent the letters out. He has no problem with that any more than he has a problem with Mayor Zudans. He disagrees with getting into a fight with some other City in some other place, but he does not disagree with his right to do it. He said some of the ones who complained, if they go back and look, they did exactly the same thing. They sent letters on official stationary with their signatures without the Council approving the text or the words. He said they don't want to get into that position where they have to approve every single thing that a Councilmember says. He said that Councilmember Howle campaigned to get rid the electric utilities, which was done. There have been some comments made in the paper about how much the Council is paid and he would double their pay and that still would not be enough money for all the work that Council has to do.

11. COUNCILMEMBER MATTERS

A. Mayor Val Zudans's Matters

Sponsored presentation items by the public (10-minute time limit)

Mayor Zudans commented that if they eliminated two (2) members from the City Council and only had three (3) members serving they could eliminate the odd year election and the turnout would be higher. He said that they may want to consider having a referendum

to see if the voters would like to have this change made. It might enable them to attract more people to run for City Council and they would get the best three (3) candidates running.

Mayor Zudans invited anyone that can attend the opening of the dock at Royal Palm Pointe that Live Like Cole helped get replaced. The Event will be on September 25th at 5:30 p.m. at Royal Palm Pointe (dock area). He said Wilco Marine Industry did the work.

B. Vice Mayor's Tony Young's Matters

Sponsored presentation items by the public (10-minute time limit)

Vice Mayor Young reported that he had the opportunity to go over to the Department of Health and discuss with them some concerns that the City has had concerning closing the beach. They had a good conversation. He learned that Red Tide was a separate matter altogether. The whole process of doing the sampling of water was discussed. They had an opportunity to look at the public notification matter and update that. There is also the potential to address some signage that they wanted.

C. Councilmember Laura Moss's Matters

Join Councilwoman Laura Moss at Leisure Square for Cathie Callery's strength-training circuit class on Monday's from 10:30 – 11:30 a.m. For further information, call Leisure Square at 770-6500. Leisure Square is located at 3705 16th Street, Vero Beach.

Councilwoman Moss commented that she was late getting to her exercise class because she was busy answering emails concerning the Proclamation discussion that was heard today. But, she did have to stand in line for her membership card so there is good participation in Leisure Square activities. She hoped to be on time for her class next Monday.

Councilwoman Moss reminded the public that "Starry Night" would be this Saturday at 6:00 p.m. at the Gifford Youth Achievement Center.

Sponsored presentation items by the public (10-minute time limit)

D. Councilmember Robert Brackett's Matters

Sponsored presentation items by the public (10-minute time limit)

E. Councilmember Harry Howle's Matters

Sponsored presentation items by the public (10-minute time limit)

12. ADJOURNMENT

This meeting adjourned at 9:33 p.m.

/tb