

**CITY OF VERO BEACH, FLORIDA
JANUARY 4, 2022 9:00 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Pledge of Allegiance

Mr. McCabe led the Council and the audience in the Pledge of Allegiance to the flag.

B. Roll Call

PRESENT: Mayor Robbie Brackett; Vice Mayor Rey Neville; Councilmember Honey Minuse; Councilmember Bob McCabe and Councilmember John Cotugno **Also Present:** Monte Falls, City Manager; Jenny Flanigan, Assistant City Attorney and Tammy Bursick, City Clerk

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – December 7, 2021

Mr. McCabe made a correction on page 8 of the minutes. He asked that the word Mrs. be changed to Mr. (Mr. McCabe instead of Mrs. McCabe).

Mr. McCabe made a motion to approve the minutes with this correction made. Mr. Contugno seconded the motion and it passed unanimously.

2. Special Call/Workshop Minutes – November 29, 2021

Mr. Neville made a motion to approve the November 29, 2021 Special Call minutes. Mrs. Minuse seconded the motion and it passed unanimously.

3. Special Call City Council Minutes – December 14, 2021

Mr. McCabe made a motion to approve the December 14, 2021 Special Call minutes. Mr. Cotugno seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Monte Falls, City Manager, requested under his matters to add the proposed schedule for the Three Corners project.

Mayor Brackett requested to add under Old Business an update on the recent Indian River Shores meeting. He also said under his matters that he would be removing the request for Mrs. Brooke Malone to speak.

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

B. Proclamations and recognitions by Council.

1. Laura Riding Jackson Foundation

Vice Mayor Neville read and presented the Proclamation.

2. Vero Beach Sock Drive – Barry Shapiro

Mr. Barry Shapiro reported on the annual Vero Beach Sock Drive. He said that new white socks are requested for the sock drive and they are delivered to the various homeless shelters. Their goal this year is to collect and distribute 10,000 pairs of socks. He briefly went over where the collection boxes are located where people can drop off the socks. The sock drive will be over at the end of February.

3. CONSENT AGENDA (include amount of expense)

A) Ground Lease Agreement between the City of Vero Beach and Aero Beach Club, LLC & Memorandum of Lease Agreement

B) Work Order #1 for Hoyle, Tanner & Associates, Inc. to Perform Design, Bid and Construction Services on FDOT Project VRB Airport Wayfinding Signage Project (\$120,800.00)

C) Advoco, Inc. to Advoco, LLC Assignment and Assumption

Mr. McCabe made a motion to adopt the consent agenda. Mr. Cotugno seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

1) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 64, Article III, Temporary Uses and Structures, to add Mobile Food Establishment as a Permitted Temporary Use in certain Zoning Districts with Temporary Use Standards; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and 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 Zoning Development Director, gave a Power Point presentation on this matter (attached to the original minutes). He said that the temporary use for the mobile food establishments amends Chapter 64, Article III, in the City Code for temporary uses and structures. It provides general operating regulations for mobile food establishments and allows mobile food establishments from mobile food dispensary vehicles (food truck) to operate in certain commercial districts under specific criteria without obtaining permits. In the 2020 State Legislation, House Bill 1193 reduced regulations on occupational licenses and added Florida Statute 509.102 that prohibits local governments from requiring registration, permits, or fees for food trucks. The current City of Vero Beach regulations has never required food truck registration or fees to operate in the City. They have issued special event permits that allow for three (3) events per year. The new definitions of *Mobile food establishment*, *Mobile food dispensing vehicle* and *Restroom, public* will be added to this Section of the Code. He said that the City's current regulations never required registration or fees to operate in the City, but did require zoning Code permits as a temporary use. Under the staff review and analysis it was determined that there has been a demonstrated community need and is consistent with the public interest. This text amendment will allow food trucks to operate in the City without permits, but follow conditions for safe operating placement to reduce traffic impacts. It serves the public interest by providing use standards for the use to comply with health and safety regulations and ensures that food trucks operate in appropriate locations to minimize impacts to adjacent non-residential properties and not impact residential neighborhoods. This is consistent with the purpose and intent of the zoning districts in this Code, and will improve compatibility among uses and would ensure efficient development within the City. The Ordinance ensures logical and orderly development patterns in the City. Staff recommends approval of the text amendment. The Planning and Zoning Board conducted a public hearing on December 2, 2021, and recommended 5-0 that the Ordinance be approved, with the one (1) change that restrooms be assessable.

Mr. McCabe asked if there was anything in the Code that would require the food truck employees to clean up after themselves and throw away trash. Mr. Jeffries said that was covered on page 8 of the Ordinance and if it is not done then it would be a code enforcement issue.

Mr. McCabe commended everyone for coming forward on this and agreed that there was a need in this community to provide this service.

Vice Mayor Neville asked if food trucks were licensed through the Health Department. Mr. Jeffries said that they were and thought that they were being inspected annually.

Mrs. Minuse attended the Planning and Zoning Board meeting when this was discussed and noted one (1) of the items of concern was the restrooms. She asked if that has been addressed. Mr. Jeffries assured her that it is now in the Code.

Vice Mayor Neville asked how many food trucks are operating in their County or how many permits have been given.

Mr. Jeffries was not sure, but said that he can look into finding the answer. He said there are local food trucks that operate in this area and some come from Ft. Pierce. He wanted to make it clear that this Ordinance does not pertain to the food trucks that operate in their Parks or Downtown. He said permits are still needed for them to operate. This is just for individual sites.

Mayor Brackett thanked staff for the time that they put into this matter. He said that operators of food trucks are doing this for a living and they need to find a way to make ends meet. He commended the City of Vero Beach for making ways in order for that to happen.

Mayor Brackett opened and closed the public hearing, with no one wishing to be heard.

Mrs. Minuse made a motion to adopt the Ordinance. Vice Mayor Neville seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

B) RESOLUTIONS

5. PUBLIC COMMENT (3-minute time limit)

Mr. James Cannon introduced himself to Council. He said that he is their new Representative from St. Johns Water Management District representing this area. He has their email addresses and will be sending his contact information to them. He just wanted to introduce himself today and will continue to get up to speed on different issues representing this district.

Vice Mayor Neville wondered if St. Johns Water Management District would be responsible for the pipe needed to go across the river. Mr. Falls said that they would not be responsible for the pipe, but would be instrumental in the consumption use for capacity.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

1) Update on meeting with IRS

Mayor Brackett reported on the meeting that he had with Indian River Shores where he met with their Mayor last week and said that the meeting did not go as he hoped that it would have. He said that the goal from both sides is to move quickly on resolving this matter and he has talked to their City Attorney to see if they can talk to the County openly

and move forward on this matter. He expressed so far there has never been a request from the County Commissioners to look at this.

Mr. Falls recalled that he sent the letter to the County on March 24, 2021, reminding them of the Territorial Agreement and if they wanted to serve areas that the City serves that they needed the City's permission in order to do that and to date the City has not received a request to do that.

Vice Mayor Neville commented that this seems odd because they are allowed to have discussions on this with the County and Indian River Shores and have openly discussed whether or not the County has the ability to serve Indian River Shores. He felt that the study that Indian River Shores has contracted should be done by now because it wasn't that complex of an issue. He said once that study has been published and made public they will have a much clearer view of what the scope of the issue is and can be easily resolved once they know that.

Mayor Brackett stated that the positive thing that came out of this meeting that he recently had with the City Manager of Indian River Shores was that both sides agreed to continue moving this matter forward and not let it be dragged out. He said mediation has been set for January 28, 2021.

Mr. Cotugno wanted it clarified that they have received no response from the County except for the Chapter 164 process. He said that they have been engaged with Indian River Shores in open discussions and the County has remained moot.

Mr. Falls explained that there have been some discussions with the County concerning the Territorial Agreement and the City was not agreeable with the conditions that they placed on them and they did respond to that. He said the study Vice Mayor Neville referenced is the feasibility study that Indian River Shores commissioned Arcadis Consulting Firm to do and the County agreed to assist by providing information. The City has been waiting for the results of that study, which was supposed to have been done in October, but now they are saying that the report would not be completed until the end of the year so he is hopeful that in 2022 they will have that report and they will see what the costs are predicted to be. There was a preliminary study done by Arcadis in June, 2020 that listed a \$23 million infrastructure cost and said that the report does not include design or permitting and it also left out impact fees.

Mr. McCabe asked Mr. Falls if he gets the impression that they are trying to stretch this out and delay the final report.

Mr. Falls said he wouldn't want to speculate that. He said the technical side of him wants to see what it is going to cost and if it can be permitted. He is also encouraged with a letter that they received from the mediator handling the Indian River Shores case who has posed 10 questions for both sides to answer. This shows that he is very knowledgeable of the situation. The City as well as Indian River Shores, will be preparing a response to those

questions. The mediator wants to have these answers in hand before they sit down at mediation.

Mr. McCabe felt that was progress.

Mayor Brackett stated that he would report back to Council on whether or not it was feasible to set anything aside to help make the matter move faster.

Mr. Cotugno made it clear that these are discussions with the Indian River Shores mediator and not the issues with the County.

Vice Mayor Neville could not fully understand why they (Indian River Shores) are doing this other than they want a choice.

Mr. Falls said that Indian River Shores has indicated that they are concerned about what the City rates will be with the construction of the Water Reclamation Facility. He said in rough numbers they are looking at \$60 million and 10% of that gives Indian River Shores \$10 million that they will be responsible for.

Vice Mayor Neville commented that this \$60 million estimate is absent any grant money that may be forthcoming to help support the new Water Reclamation Facility.

Mr. Falls expressed that the \$60 million figure could go up, just as the estimate that Arcadis gave could also go up.

Vice Mayor Neville commented that it surprises him with all the wealthy people who support helping the Lagoon and do a lot for their community that they would not be in favor of the project and support it. He said one of the biggest things that they can do for their Lagoon is get the Water Treatment Plant off the Lagoon and replace it with a state of the art facility.

Mr. Falls made it clear that this is not like the electric issue. The reason it is not is because there was a huge disparity in rates with Florida Power and Light (FPL) and the City of Vero Beach. If they look at their water rates today and the County's rates, the rate structure is a little different, but the rates are the same. He said this is a big issue and the City needs to get this straight so they can move forward with their new Water Reclamation Facility. He said that the City offers a competitive service at competitive rates.

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

A) Appointment to the Planning and Zoning Board

Mrs. Tammy Bursick, City Clerk, reported that Mr. Richard Cahoy recently resigned from the Planning and Zoning Board as the alternate member. This leaves a position open on this Board. The only application on file is from Mr. Jeff Stassi.

Vice Mayor Neville made a motion to appoint Mr. Jeff Stassi as an alternate member to the Planning and Zoning Board. Mr. McCabe seconded the motion and it passed unanimously.

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

A) 2022 City of Vero Beach Evaluation and Appraisal Notification Letter

Mr. Jeffries reported that the State requires that local governments every seven (7) years determine if there is a need to amend their Comprehensive Plan. The Vero Beach Comprehensive Plan was adopted in 2018. His recommendation would be that there are no amendments needed to the Comprehensive Plan at this time through the Department of Economic Opportunity's Evaluation and Appraisal (EAR). He said that the first step in this process is to go back over a visioning process. He said it is good to relook at the visioning plan that was last done in 2005. They probably will want to update it and go through the visioning process. Once they have a vision plan then they can do an evaluation and appraisal report. He went over some of the components of the Comprehensive Plan. The adoption process goes through the Planning and Zoning Board and they make recommendations to take to the City Council and then it is transmitted to the State. Once the State has provided their comments then the City proceeds with adoption. He said the Comprehensive Plan is a very technical process that they have to go through.

Mrs. Minuse recalled that originally there were nine (9) elements in the Comprehensive Plan and asked if Coastal Element is still an element. Mr. Jeffries said that it is and it is mandated by the State.

Vice Mayor Neville thanked Mr. Jeffries for explaining how this process works. He said if they change zoning somewhere then they have to go back to the Comprehensive Plan and have it adjusted. He said if the public is interested in how the City operates it starts here and if they feel something needs to be changed then the City can look into seeing if those changes can be made.

Mr. Jeffries suggested that the City Council review their visioning plan because it lays out the basis for all of this. They need to make sure that it still reflects what the community desires. There are certain areas like the Three Corners project that has not been mentioned in the visioning plan. He said probably within the next five (5) years the visioning plan should be updated.

Mrs. Minuse recalled that the consultant that was hired to do the visioning process in 2005 went to the public and the public didn't come to them. She said it worked out very well.

Mr. Jeffries advised Council that this letter they are approving today needs to be sent to the State by February 1, 2022. They will notify the State that the City Council has evaluated the Comprehensive Plan and determined that no amendments are needed to the Comprehensive Plan at this time through the EAR process.

Vice Mayor Neville commented that there are some things that he would like to see adjusted in their Comprehensive Plan and he just wanted to make sure that it could still be done. That was his concern pertaining to sending this letter to the State.

Mrs. Minuse made a motion to approve sending the 2022 City of Vero Beach Evaluation and Appraisal Notification Letter to the State of Florida Department of Economic Opportunity. Vice Mayor Neville seconded the motion and it passed unanimously.

B) Update on Florida Department of Environmental Protection's Protecting Florida Together Grant Award

Mr. Falls stated that this item was to update the Council on the Florida Department of Environmental Protection's Protecting Florida Together Grant Award. He said as they discussed at the last Council meeting they were selected to receive a \$1.25 million grant from the Florida Department of Environmental Protection (FDEP) and they would have to match this grant of \$1.25 million and it was for septic tank to sewer conversions outside the City limits. They talked about the uncertainty of their service territory they were going to approach FDEP about the possibility of shifting this grant award to their Waste Water Treatment Plant. He said that the Water and Sewer Director has talked to FDEP and they are amenable to that action. He said there are two (2) options and he wanted some direction from Council on which option they would like to take. The easiest thing for the City and what would benefit all of their residents and utility customers is to use the grant award for the Waste Water Treatment Plant. He said the reason that FDEP was in agreement to do this was because it met one (1) of the grant award/requirements. He said if they were going to continue with the septic to sewer his recommendation would be to contact Indian River County and ask them if they cannot guarantee the City a 30-year franchise that they pay the matter if they want to move septic to sewer on the South Beach barrier island. If they have a franchise agreement in place with the County then they can have some assurance that \$1.2 million of utility customer funds would not be lost. He said these two (2) options are both viable, even though he does not know what the County would say to the second option because he has not reached out to them. There is not a hard deadline on getting back to FDEP on this and if Council would like to explore reaching out to the County and bringing the matter back to Council then he would be happy to do that. He doesn't know what the County will say because they have not reached out to them.

Mr. Cotugno recommended that they take the grant money for their Waste Water Treatment Plant. He said if they want to approach the County as a courtesy telling them that they are going to receive this grant and redirect it unless they hear different from them that would be fine.

Mr. Falls explained that moving the grant money to the Waste Water Treatment Plant benefits all of their customers.

Mayor Brackett suggested moving the grant money to the Waste Water Treatment Plant because it benefits all of their customers.

Vice Mayor Neville asked how many customers are affected in South Beach that they are dealing with in terms of this matter.

Mr. Rob Bolton, Water and Sewer Director, recalled that it was 900 customers on the barrier island and 600 customers on the mainland. He said they are serving around 1,500 customers outside of the City limits. He said that the funds were both for Indian River Shores and for the south barrier island. However, they could apply all of it to outside the City limits and pull in some of the areas like Country Club Pointe and those areas near the main canals. He reported when he talked to FDEP, he was told that they do not like to fund conceptual designs, but because the City is getting ready to award a hard design cost they looked favorably at that.

Mr. McCabe said what he was hearing is that they would go straight to FDEP without approaching the County.

Vice Mayor Neville commented that this is the first time that the public will have heard about this so his recommendation would be to bring this back for further discussion and get some input from the public. He agreed meeting with the County on this is a good idea.

Mayor Brackett agreed with reaching out to the County and bringing this matter back at their January 18th meeting.

Mr. Cotugno suggested having the Utilities Commission review this as well.

C) Update on the Three Corners Project

Mr. Falls gave an update on the Three Corners project. He said that the Steering Committee will meet tomorrow on the Community Plan and then the Planning and Zoning Board will meet on Thursday to discuss the matter and then it will come back to City Council at their January 18, 2022, meeting. At each of these meetings public comments will be heard, which will give the public three (3) additional meetings to speak. He said after the January 18th meeting is held then staff will start moving on the work that needs to be done on the referendum to keep moving this process along.

10. CITY ATTORNEY MATTERS

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

Mayor Brackett hoped that everyone had a great Holiday. He thanked staff for their dedication in continuing to work during the Holiday period.

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

- 1) **Mrs. Brooke Malone to request that the City consider abandoning the green space located on Dodger Road between the Walking Tree Brewery and Binaff Aluminum.**

This item was pulled from the agenda.

B. Vice Mayor Neville's Matters

Vice Mayor Neville talked about the huge Tennis Tournament that will be held later this month at Grand Harbor. He said it is a big event and will bring a lot of people to town.

Mayor Brackett commented that there are a lot of events coming up for this coming year. He said that it was nice to see people out and about and trying to get back to normal and doing things.

Vice Mayor Neville wished everyone a Happy New Year. He hoped everyone would be safe and careful and hopefully COVID will be gone soon.

C. Councilmember Minuse's Matters

Mrs. Minuse commented that the Legislative Bills are keeping her busy. She is working with the Treasure Coast Regional League of Cities, as well as the Florida League of Cities on lobbying efforts concerning home rule. She wished everyone a blessed New Year.

D. Councilmember McCabe's Matters

Mr. McCabe agreed that there were a lot of events coming up this year and reminded everyone that the Rotary Club Brewfest will be held in February and tickets are available. He wished everyone a Happy New Year and expressed that there would be a lot of challenges and opportunities coming up this year.

E. Councilmember Cotugno's Matters

Mr. Cotugno brought up having one (1) Council meeting a month held in the evening. He would like Council to consider this. He felt that it was important as they move forward. He brought up the Three Corners project and said that they need to have as much public input as possible.

Mayor Brackett asked the City Clerk to put this item on the next City Council agenda for discussion.

Mr. Cotugno reported that the President of Piper will be giving him a tour of Piper on January 12th and has asked to extend the invitation to any other Councilmember that would like to join in the tour.

Mayor Brackett commented that he took the tour a month ago. He had some concerns that taking a tour as a group was probably not a good idea. There could be some Sunshine issues.

Ms. Jenny Flanigan, Assistant City Attorney, agreed that the tours should be done separately (one on one basis).

Mr. Cotugno just wanted to extend the offer because he was asked to do that.

Mr. Cotugno brought up the Jimmy Graves Community Complex and said that he recently was given an update on the project. He said that there are three (3) parts of the project that might be of interest to the City. He said there is a community amphitheater, a playground and an historic walking trail that will extend from the complex to the Heritage Center. He said that part of the project is very exciting to him. He feels it works well with the downtown businesses and revitalizing the downtown area. It is all fitting in with the Florida Department of Transportation traffic calming situation that they are entering into. He felt that the City should consider supporting this historic walking trail.

Mayor Brackett agreed it was worth talking about. He has had discussions with various School Board members and staff about it. He said that this playground will be the first ADA playground in the County that will support all youths with disabilities. He felt that would be very beneficial. He thought that this was an important and very worthwhile project. There are a number of uncommitted funds that they could look at in going into partnership with the School District on this. This property will be used by everyone in the County and not just City residents.

Mr. Cotugno agreed that the hub of their City is in this location and will be beneficial to the City. He said that the School District has agreed to maintain the property, which is a benefit.

Mayor Brackett recalled years ago that there used to be some sort of activity going on at this ballfield every night of the week. He said that it was the “hub” of the community. He is happy to see that coming back. He said that they will do all they can to work with the School District to help them with this project.

Vice Mayor Neville mentioned that the lighting on Ocean Drive is not good. He said that several of the lights are either dim or not working at all especially at the area across from the Driftwood.

Mr. Falls said that he would look into this.

Vice Mayor Neville brought up the lighting downtown also needs to be looked at. He knows that there is a lighting project that the Economic Development Zoning Committee has been working on. He would like to see that take place.

Mr. McCabe agreed that a comprehensive look at both of these locations was important.

13. ADJOURNMENT

Today's meeting adjourned at 10:22 a.m.

/tb