

**CITY OF VERO BEACH, FLORIDA  
JANUARY 15, 2019 3:00 P.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Mayor Harry Howle, present; Vice Mayor Lange Sykes, present; Councilwoman Laura Moss, present; Coronel Tony Young, present and Dr. Val Zudans, present **Also Present:** James O'Connor, City Manager; Kira Honse, Interim City Attorney and Tammy Bursick, City Clerk

The invocation was given by Reverend Dan Holloway of Unity Spiritual Center followed by the Pledge of Allegiance to the flag led by Dr. Zudans.

**1. CALL TO ORDER**

**A. Roll Call**

The City Clerk performed the roll call.

**2. PRELIMINARY MATTERS**

**A. Approval of Minutes**

- 1. Regular City Council Minutes – December 11, 2018**
- 2. Special Call City Council Minutes – December 11, 2018**
- 3. Special Call City Council Minutes – November 27, 2018**

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

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

Mayor Howle requested that item 8-A) “Draft Request for Proposal (RFP) for Management or Lease of the City Marina” be moved up and heard along with item 2E-2).

Mayor Howle referred to item 4-A under New Business and said with all due respect the Election has been discussed at previous meetings.

Councilwoman Moss explained that only items 4-A – D will be discussed and the rest of the items are for information purposes only.

Mayor Howle requested that item 3-G) be added to the agenda “2018-2021 Teamster Clerical and Technical Unit Contract” and heard under the consent agenda items.

**Mr. Sykes made a motion to approve the agenda as amended. Mr. Young seconded the motion and it passed unanimously.**

**C. Proclamations and recognitions by Council.**

**1. Riomar Country Club Centennial Anniversary**

Mr. Young read and presented the Proclamation.

**2. Rotary International Home Stay Week – January 6-10, 2019**

Councilwoman Moss read and presented the Proclamation.

**D. Staff/Consultant special reports and information items.**

None

**E. Presentation items by the public (10 minute time limit).**

**1) County Commissioner Bob Solari to speak on the Dodgertown Golf Course Property – Sponsored by Mayor Harry Howle**

Mr. Bob Solari, County Commissioner, read a prepared statement (please see attached).

Mayor Howle asked about the possibility of an outflow.

Mr. Solari explained that one (1) of the permitted uses would be environmental projects and one of those would be a type of passive remediation system where they can take stormwater from one (1) of the road projects or main relief canal and remove nitrogen and phosphorus. He referred to some of their projects, including the City of Sebastian that has a park that was designed that way.

Dr. Zudans referred to statement he read about why Mr. Solari voted no on the Major League Baseball deal, which was that governments should not be involved in businesses that could be run by private companies.

Mr. Solari said one (1) of the reasons he voted against it was one (1) of the same reasons he was supporting the sale to Florida Power and Light (FP&L). He believes there a lot of things that the private sector can do better, including electricity and sports. He said yes, he will put up a good fight and good argument for something, but after the vote, they had an agreement that lasts at least 10 years and eight (8) months and has three (3) five (5) year renewals. He wants the project to succeed and he believes the best thing for their community is to see it be successful.

Dr. Zudans asked if there is an alternative to resolving this parking issue that can be done through private means. He said he laid out an alternative way that the County could meet their parking needs but when that was presented to the County, there was no interest in discussing that and they were only interested in buying the property. He asked if the City

Council says they don't want to sell it, would the County be open to looking at other options with some of the other properties they have around there that would allow the City to do something different with this Dodgertown property and keep it on the tax roll.

Mr. Solari said that he could not answer for the Board, nor has he thought about it. He has thought about this purchase after the deal is done. He said they have a great park system in this County. He tried to figure out the best thing for the community as a whole. For him, it is the purchase of this property and adding it as a park that is well situated which would build a bigger better picture of things and enhance the community. He has been big on parks, conservation areas and pedestrian ways. If they can make this a focal point of the community, it would be a very positive thing. For him, given the reality of the Dodgertown agreement, he believes this is the best step forward for the City, the County, Major League Baseball (MLB) and the citizens of Indian River County.

Mayor Howle said he is of similar thinking with private sector and limited government. He said they have brought this up in the past and there were some questions and they didn't have any concrete evidence that this property was going to be one thing or another. He said the County has secured a contract with MLB and they presented a nice plan for what they intend the property to look like. He said the City has spent 10 plus years fighting over the electric sale issue and the City and the County have bridges to gap. With the MLB contract in place, he believes this is the time for the City and County to bridge those gaps and create something that is good for the community that everyone can enjoy. He said this is the perfect time for them to do something that involves everyone. He does plan on putting a motion on the table tonight and that is to accept the offer from the County.

Mr. Solari applauded Mayor Howle for recognizing there might be a gap and he thinks this may be a great way to fill it. He believes limited government is an incredibly important principle, but he has to remember that the principles that guide his actions on the County Commission are a means to the end but not the end. At the end of the day, the concern is for the good order of the community as a whole.

Councilwoman Moss asked him to clarify with regards to MLB for the public that it is not actually a team and what it will be.

Mr. Solari referred to Mr. Jason Brown, County Administrator, to answer.

Councilwoman Moss said she shares their concern regarding open space but with regard to the price they are offering, the City would take a financial blood bath. She said this is an ironic twist as he was a part of getting them into it (purchase of Dodgertown) in 2005 when they purchased this property for \$10 million, which perhaps was high. Currently they owe about half of that and if they apply this offer to the half they still owe, they won't have any property but they will have a \$3 million debt. She said with all due respect, since he got them into this, can he get them out of it so they don't take a blood bath.

Mr. Solari said the \$2.4 million is the market value today. They are looking at taking an offer for \$2.1 million. He said the 2005 price is irrelevant. He noted the City has had the property for 14 years and has not done anything with it. The County will get things done, as the agreement states, within three (3) years. He pointed out that was done in his first year of office and about a year later, he voted to sell the Post Office annex property. He went over some of the history on that property. He said people did make errors in the past but that is the past. He is here today to offer something that is in the best interest of their entire community and do what people thought could have been done 15 years ago with that property.

Councilwoman Moss understands they need to buy it now, but the City doesn't need to sell it. She does want to help them with their parking problem and she thinks what Dr. Zudans referred to could help. With regard to tourist tax, if the City was getting their fair share, they would not have debt service on this property potentially because they could have applied it the way the County did. She said if they look at the tourist tax, they could have been using the one-cent tourist tax to pay their pay debt service for Dodgertown. There are two (2) taxing districts, which are District 1, which the City of Vero Beach is and District 2, which is everywhere else. She said with our 13 square miles, they contribute about half of that money. In her mail today, they just got the tourist tax figures and the most recent estimate is a half a million dollars. If they had been able to apply it the way the County uses tourist tax to pay for their debt service for Historic Dodgertown, the City wouldn't have a debt service.

Mayor Howle said they have had this property on the market for eighteen months. They now have a contract with MLB that it is dependent on having the parking spots that are needed and they have done nothing more than mow the lawn for 14 years. He doesn't think that trying to tie the tourist tax into what they are talking about is going to solve any issues. He thinks they need to stick to the topic and make a decision about how they want to proceed.

Councilwoman Moss said we do generate our own tourist tax and should get to use some of that. She said they are going to be discussing parks and repair and maintenance and that tourist tax could be used that way. She questioned where are they going to come up with more money for that.

Mayor Howle said they are going to save money over time because they are not going to pay interest.

Councilwoman Moss said they are going to have no land and will be sitting there with debt service.

Mayor Howle said they are going to lose some liability and will have a place to go and enjoy with whatever comes out of this deal. He doesn't disagree with her on the tourist tax, but thinks that could be discussed down the road.

Councilwoman Moss said she has been talking about this for two (2) years and has gotten nowhere. This is the only time they will have leverage. She pointed out that property was purchased as open space. She added they will be developing the Power Plant property, the Water and Sewer Plant property and the piece of property across the street in a year or so. After they do that, then they will have no other large pieces of open space other than the Dodgertown golf course. At that point in time, they may look around and see if they still want that open space. She said that is a better time to make the decision about the future of that piece of property. She said the City Manager had previously brought up perhaps leasing it. She is happy to try and solve the parking problem.

Mr. Jim O'Connor, City Manager, agreed that MLB is important to the area. He said one of the solutions could be leasing enough space for 2,000 parking spaces, which wouldn't encompass the entire ground but would be a reoccurring revenue stream. The lease would have fall backs and if MLB should leave or something should change, the City would still be in control of that property.

Councilwoman Moss asked if it is just a 10-year contract. Mr. Solari answered 10 years, eight (8) months with three (3) five (5) year renewals. Councilwoman Moss pointed out that they weren't any good at keeping them before.

Mr. Young said the proposal that came earlier to them was between a private contractor and the County. His concern is that the County is successful with having MLB enter into the deal. He thinks it is phenomenal that they have that deal and thinks that the County deserves a lot of credit for that. His aspiration is to ensure that they are successful and he wants to make sure that Dodgertown is what people have in their mind as Historic Dodgertown because not only is it an economic boost to the community but also of great historical significance. His concern is that as they move forward they need to be good stewards of their financial resources for the City and to be the best stewards of their economic resources, they should retain control of that property and enter into a lease with the County so they can support their efforts to have parking.

Mr. Solari said they already have an agreement to use that property for parking as long as they are not using it for something else. He said the issue is do they want a parking lot or do they want something else that adds value to the community. He believes what the County is offering adds to the value of the entire community.

Councilwoman Moss commented that they want a revenue stream.

Mr. Solari said at the end of the day, government is not about revenue streams. It is about good order in their community and doing what is best for all citizens in their community. He believes in the past the City Council went down the wrong trail on other things, including when they fought the FPL deal when they didn't sell the Post Office and when they bought the boat storage business at the Marina. He emphasized it is not about revenue streams.

Dr. Zudans said that he would like to see the County and the City start working together better but he doesn't think the only way for that to happen is for the City to sell the property to the County. He would like the County and the City to sit down and talk about this and see where everybody wins. He said they could end up with something like connecting bike trails and allowing ancillary services that go into the County and also have some private business there. The City and the County needs to have a discussion to see if there is another option that solves all the issues related to the MLB deal, keeps a portion of green space, but also gets businesses that can be vibrant in the community. He said there are a lot of things going on at the Airport. He said there is going to be growing manufacturing in this area. He said it is not a critical role to have government control that piece of property.

Councilwoman Moss suggested having a joint meeting with the County and having it open to the public.

Mr. Jason Brown, County Administrator, referred to the Mayor's comments about building bridges and making sure they are having good relationships. He pointed out that in 2015 the City asked for and the County granted the release of deed restrictions on this property. He went over the restrictions with that lease agreement. He said they wouldn't have a piece for property worth \$2.1 million without the County's action. He went over what the City granted to the County in this agreement. He said in that spirit, they were working in partnership in 2015 and pointed out that if that parcel still had the deed restriction it could only be used for a municipally owned public golf course, green space, or park like setting and they wouldn't have a developer offering \$2.1 million for it. He hoped that there would be some recognition of that and that the County is offering \$2.4 million. He thinks the County has made a fair offer here. He thinks it addresses the open space concerns and resolves the parking issue.

Councilwoman Moss asked what happens if they leave in 10 years. Mr. Brown said that their hope is that the facility is successful.

Dr. Zudans thinks that the City and the County has the opportunity to do something together to make things better. If the only way to do it is to sell to the County, then that is what he would want to do. But he thinks there may be a solution that solves all of the County's problem that is better for the City of Vero Beach. They have another issue with parking on Ocean Drive and they have talked in the past that part of problem is that the County tourist taxes are not allowed to go towards parking issues. They have been talking about a parking garage on Ocean Drive and if the County were to change their rules about what tourist tax can go to, he thinks that is something that could be discussed and potentially get more for the citizens of Vero Beach. He added there is no urgency to decide what they are doing with that property and in the meantime, they are letting the County use it free of charge. He personally is not going to vote to sell to the County today. He does want to find the best solution that is mutually beneficial to both the City and the County and he believes some portion of that should be through private industry.

Mayor Howle said if they do nothing and the County does not accept the idea of a lease and the City does not accept the idea of a sale, then MLB does not have the guarantee they are going to have the public parking spaces they need and they could pull out. Then the City is on the hook for \$630,000 a year for 14 years, no other offers could come and it remains a piece of property and Dodgertown fails then nothing has been gained and everything has been lost.

Mr. Young said that is the worst case scenario. He wants to work with the County and there may be things that he is not taking into consideration before he makes a judgement.

Dr. Zudans asked if there is a signed lease between MLB and the County. Mr. Solari answered yes, there is an agreement. Dr. Zudans said then the scenario by Mayor Howle is not possible.

Mr. Sykes thanked the County for bringing this offer back to them today. His concern last time they brought the offer to them was a bit of ambiguity about potential uses for that piece of property. He is happy to see what they have agreed to and the green space utilized for public benefit. He referred to the historic significance of Dodgertown. He thinks the current state of it is shameful at best. He is excited to offer something that was not an opportunity before to the youth of this community and to have MLB come in is pretty incredible. He doesn't think this is an appropriate time to leverage anything, including tourist tax dollars. He thanked the County for their offer. He is in support of selling the property to the County. He said the number of people who stood up in opposition to the development was incredible and the number of people who asked them to sell this piece of property to the County was also incredible. He thinks \$2.4 million now is better than the alternative. He said leasing the property would not be a revenue stream for them. He sees this as an opportunity to work the County and create something great for the community as a whole. He said he would second the Mayor's motion.

**Mayor Howle made a motion that the City sell the Dodgertown property to the County for the purchase price of \$2.4 million, cash. The County commits to planting additional trees and landscaping along the east side of 43<sup>rd</sup> Avenue at the completion of the widening project, but no more than 36 months from the purchase of the property. For as long as the Amended and Restated Facility Lease Agreement for the Dodgertown Property is in effect, the property will be used for passive recreation, environmental projects, a pedestrian pathway around the property, or activities that are ancillary to and consistent with the use of the Dodgertown Property by Verotown, LLC.**

Mayor Howle opened public comments.

Mrs. Penny Chandler explained that the one to two percent bed tax that they were referencing to be used for purposes other than tourism and tourism promotions are not allowed by Florida Statue. It's the law.

Dr. Zudans said so tourism related parking is not allowed. Mrs. Chandler read the purposes not allowed from Section 125, of the Florida Statutes.

Councilwoman Moss said that she wasn't suggesting anything that is not in the Florida Statutes; she explained that she was just talking about debt service.

Mrs. Chandler urged them to sell the property to the County. She said the community has waited many years to see the City do something meaningful with it and that has not happened. She said they have a good offer with someone they can count on to maintain that property in the way it should have been maintained.

Mr. Brian Heady urged them not to sell. He suggested the City maintain the property and let the County lease it for what they pay on debt service. He said the County could agree to give them back the tourist tax and the City can contribute that towards the development of Dodgertown. He feels that would be good for the community as a whole. He said the deal that is being proposed is that the use be consistent with the needs of the LLC. He said that Mr. Peter O'Bryan said that one of the needs that would be consistent with the LLC's needs would be to build a hotel. He said so they know what is long term that they are not being told. He said the County could reverse the tax swindle that happened a long time ago. He noted that in 2002 the County decided to no longer contribute to the City Parks, which was about \$680,000 a year. He said the tax collected within the City belongs to the City and some City Council a long time ago was talked into giving that money away. He went over the history of the Post Office annex building. He pointed out they were elected to two (2) year terms and he will submit to them that a Vero Beach lawyer handed him a card that said there is no quorum here and he agreed there are three (3) terms that are up. He said they could have voted to extend their terms but they did not.

Mr. Joseph Paladin, a builder and developer in the County, said he supports the deal with the County and believes it is the best thing for the County and the citizens of Vero Beach. He stated a property is worth what it is worth. He said they just don't know where the market is going to go. What they are proposing to do with this property is a benefit to the community. He has been involved in a lot of developments throughout the years and there are developments that were never finished. He commented that what is best for this community is something solid that they can build on. He recommended that they make a deal with the County and make a great partnership.

Dr. Zudans said he did look at the Statute and they could potentially use tax dollars. It would require a change in what the County allows for the use of bed tax dollars for tourism related parking.

Mr. Jason Brown, County Administrator, said his understanding is different. There are things that are allowed in the Statutes and a parking garage is not one of them. He the read from Section 25.0104, Florida Statutes. He doesn't think parking garages can be built with tourist tax dollars per State Statutes.

Ms. Dory Stone, Indian River County Chamber of Commerce, said her Board supports the deal of the City property being sold to the County. They see the whole Dodgertown property as being key to their sports tourism, as well as economic development. They also see the ability to add the infrastructure that the County is proposing with the creation of a landscape buffer and a pedestrian bikeway, which would have a significant improvement to the property. She asked them to consider that value. She is here today to point out that the Chamber Board continues to support this, as well as the Chamber Staff, the Economic Development Group, and the Tourism Group. They will do whatever they can do to help move this along.

Ms. Alma Lee Loy said the last time she addressed them regarding the purchase of the Dodgertown property, she made reference to the possibility of MLB coming to Dodgertown. At that time, she did not know for certain so she could not answer their question. Now they know MLB is coming to Dodgertown. They have heard the County's proposal from Chairman Solari and Administrator Brown. The plans of MLB are designed to make Dodgertown a designation spot for visitors and citizens. In order to execute their plan to bring young ballplayers to Dodgertown, MLB needs to be in control of all operations. Through the years their presence will be a major economic impact to Vero Beach and Indian River County. As members of City Council, they have a once in a lifetime opportunity to make an investment in MLB with the County thus creating a legend of cooperation for future generations to recognize that they are a something special City and County. She believes she speaks for many citizens who have endorsed this project. She said let's move on it. They are depending on each of you to play a major role in the completion of this historic project. Their Centennial celebration will forever be highlighted by their decision.

Mr. Peter O'Bryan, County Commissioner, said that a couple people spoke about bridging gaps. He pointed out some of things that they have already done. The County was a huge supporter with the FPL sale and helped move it forward and used their lobbying firm to help move it forward. He said as they speak, Sector 5 Beach renourishment project is one (1) of their top three legislative priorities and they have their lobbying team working on it as they speak today and this is entirely within the City limits. The Tourist Development Commission (TDC) recommended and the County Commission approved helping to market the Vero Beach Airport. Because of these things Vero Beach has now become a name. He explained how the activities at Dodgertown are creating a revenue stream for the City that goes into their General Fund through the one percent sales tax. With the expectation that MLB will fill the dead summer season, that revenue will go up. He appreciated that Dr. Zudans is trying to reach a compromise, but feels unless they own the land, they don't have a certainty for the future. He appreciates that he (Dr. Zudans) wants to find that combination, but with that proposal, they lose the improvements that Commissioner Solari presented because they couldn't do any of those types of improvements because they would need that parcel for parking. He thinks the County needs the certainty going forward to own the land. He reiterated that the County has been cooperating with the City on a lot of issues. The City and the County are in good strong shape. They have been successful and one (1) way to continue this cooperation is to partner with the County on the sale of the land and

continue these successful activities that Dodgertown has been putting out and will hopefully increase with MLB adding additional youth programs. He urged them to consider the motion by the Mayor and move this forward.

Mrs. Phyllis Frey read a prepared statement (attached to the original minutes). She said let the County put a plan in place for a City/County partnership while the City keeps the land. She agreed with Dr. Zudan's. She said the land will appreciate in value because the population is growing and it is valuable.

Mr. Mike Zito, Assistant County Administrator, said at no time did they contemplate nor does the lease state what MLB's intentions are with respect to branding, but it is going to be MLB's National Training Headquarters in Vero Beach. He thinks this decision seems obvious.

Mr. Brown said there seems to be some confusion that the County wants to build a hotel there. He said they have no intention of building a hotel there and thinks the restriction language covers that.

Mr. O'Connor said there is no issue with deed restrictions if there was a sale.

Mr. Brown said the deed restrictions limiting the type of activity is as long as a lease is in place with MLB. He said the proposal is during the lease.

**Mr. Sykes seconded the motion.**

Dr. Zudans said it is his understanding that if there was developer that the City ended up selling the property to in lieu of the County and had some alternative arrangement that a portion of the spaces were designated for events for Dodgertown and they made that part of a deed restriction in a sale, that isn't something that a subsequent owner could get around. He asked if that was correct.

Mr. O'Connor answered that is correct.

Dr. Zudans wanted to make it clear that there is already a 10-year, eight months lease that is in no jeopardy whether or not they sell to the County. It is only in jeopardy if they sold to a developer and they didn't have any way for the County to fulfill their part of the lease of providing 2,000 spaces. He is for the economic impact and for MLB and he wants them to be here. All he is asking is that they see if there is a better alternative that meets all the requirements that is beneficial to MLB and the County and allows what is in the best interest of the City of Vero Beach. He thinks there is a way that they can all have mutually beneficial solutions to this problem that is better than the solutions being presented tonight. He does not want it to be taken that he is against this when he votes against it. He is for the deal with MLB and for making an improved relationship between the City and the County, but he wants to be comprehensive and he thinks there is a better solution.

**The motion failed 3-2, with Dr. Zudans voting no, Colonel Young no, Councilwoman Moss no, Vice Mayor Sykes yes, and Mayor Howle yes.**

**2) Mr. Keith Drewett to speak on retaining the City of Vero Beach Marina under direct City Management – Sponsored by Councilmember Tony Young**

**Draft Request for Proposal (RFP) for Management or Lease of the City Marina**

Mr. Keith Drewett said he is in favor of the City continuing to operate the Marina directly and not via a management agreement or a lease. He presented Council with a handout, which he went through (attached to the original minutes).

Mr. Young said what is paramount for him is that they continue to look at ways that they can maximize the income for their City. This is one (1) opportunity that is right in front of them, which the only barrier to that is having confidence that the City can manage the Marina. Having had the opportunity to look at the Marina and having the opportunity to listen to those who have been engaged with this, he thinks they have an excellent opportunity before them. Also, there is a catalyst in that they have let go of their management and have two (2) very good candidates in front of them who could execute this draft plan if they were behind it. The only detriment could be if they mandate to the new manager that this is the way they want to go and he fails to execute it, then at that time, they can turn to the less lucrative alternative, which is a management firm.

Mr. O'Connor said they are interviewing candidates and have two (2) very strong experienced candidates if the City wants to stay in the marina business. If not, then they would have to go the RFP route.

Councilwoman Moss said she is favor of the City maintaining control of the Marina. They have smart dynamic people willing to put time into it. They need to maintain the charm and the character of it as they raise it up and they can do that themselves. She doesn't think they need an RFP.

**Colonel Young made a motion that they proceed with reviewing the candidates that they have to assume the responsibility to improve the Marina with the plans as suggested here. Councilwoman Moss seconded the motion.**

Dr. Zudans said running a marina is not a core role of government. He is for doing their job, which is to look at all the options to see what is best for their community. They may decide in the end that they want to do it in-house and still have the government running businesses, which he doesn't think is appropriate. Their job is to review all the options. They put out the RFP for lease arrangements and received two (2) responses and learned that a lot of the cities are going through management agreements, where the City still owns and can fire the management company. They have the option of reviewing what an outside management company can do. He is inclined to choose one of them or go into a lease agreement if they think that is what is best for their community and he thinks there

are a lot of advantages to that. He said to not look at other alternatives is not doing their due diligence as members of this Council.

Councilwoman Moss said she understands if he needs to see that. She said there was a question about Section 5.05 of the Code, which was that parks and public lands shall not be sold, leased, traded or given away unless it goes to a referendum.

Dr. Zudans said the City Attorney already answered that.

Mr. Young pointed out that the review of the last proposals brought nothing of significant merit to the discussion. Now they have looked at this significantly and have had ample review of options available to the City. He said all of them agree they need to move forward improving the conditions of the Marina. They have looked at leasing and having a management firm. The third option is for them to take the opportunity to turn the Marina into what they want it to be and allow the City to empower a Director to make it as golden as the airport and water production and they would benefit from the additional revenue.

Dr. Zudans said that is not his recollection of what happened. All along they have been talking about the third option. His recollection is that it was Councilmember Sykes who wanted to put this back out for a new RFP to include management agreements when they learned that the majority of these relationships between cities are related to management agreements and they should get more information. He doesn't see the harm in gathering more information.

Mr. Young said the City of Vero Beach and the citizens for a long length of time have felt the Marina is a part of who we are and a part of what brings people to Vero Beach. So to dismiss the fact that the City should not be in various enterprises denies who they are as a City. He understands the philosophical proposition that the City should only be in essential services, but for him an essential service for Vero Beach is the Marina, which brings people here and increases their property values amongst many other things.

Dr. Zudans asked who says they can't do it better with a different type of arrangement.

Councilwoman Moss said they need a new City Manager and a new Marina Director. She was wondering what the City Manager's thoughts are. She said he would be leaving and they will have a new City Manager and a new Marina Director and asked what is the best way to integrate that. She asked if they are doing an RFP, should the new Marina Director be directing the RFP and be involved in that.

Mr. O'Connor said they are not going to be hiring a Marina Director who could be replaced in 90 days by the RFP. They are not going to find someone who is going to manage the RFP other than the City Manager and the City Council. That is why they have it in front of them to look through and see if there is anything missing. The question before them tonight is do they want to do the RFP and request proposals or keep the Marina under their own management of the City. Because the Marina Director is leaving,

he felt that they needed to put out a proposal to fill that position and do some interviews to make sure there are options that are available. They had two (2) very good interviews of people that he thinks can turn the Marina around if that is what they want to do. If they say they want to go with the RFP, they have made it clear to the candidates because he didn't want someone coming in and thinking they are taking a job that is going to take a while. He said they are both presently working. He thinks they have all the viable options in front of them. They need to take a course and stay on that course and make it happen.

Mr. Young said if they proceed with the RFP, that is a disincentive for finding the individual they want that's most qualified for managing the Marina. Mr. O'Connor answered yes, that they would drop any interviews or any other discussions with anyone because the RFP is setting a course.

Dr. Zudans said in the event they proceed with the RFP, people might become uninterested for the time being until they see what is going to happen with the RFP process. He asked if it is correct that they do have a contingency plan of how the Marina would be managed with their current City government.

Mr. O'Connor said they would go to an interim and find an employment service who would put an interim in for them.

Mayor Howle asked if they do an RFP and it failed, could they bring in one (1) of the applicants at that time

Mr. O'Connor said they would need to go back through the interview process.

Dr. Zudans asked if they would need to re-announce the position if one (1) of those two (2) applicants was interested. Mr. O'Connor answered no. He said both applicants have indicated that they have a concern that the City has the tendency to change their mind. He said job security is an issue and in both cases, these people would need to relocate and would be leaving employment.

Mr. Sykes asked if they have any relatively current studies to give them an idea of what the actual cost would be to the City to bring the facility back up to a safe operating condition. Mr. O'Connor answered no. Mr. Sykes thinks that is the elephant in the room with this whole deal. They really don't know what it is going to cost. What he has seen over the years and since the hurricanes is probably more extensive than they can visually see. Mr. O'Connor said they are going to pay for that anyway. If they bring in a management company, they are going to expect to recover those costs and will come to them and say what they need to spend and the City pays that long term.

Dr. Zudans pointed out that an advantage of a lease is that the City is not on the hook for any of these capital improvements. You have terms in their lease that actually get done what they want done. He said it is way better than a management agreement or the City running itself and paying for everything themselves.

Mr. Young said the legality of the City proceeding forward with a lease has been questioned in the community and that is the most precarious of the options. He said the community has a significant concern that is not allowed without a referendum.

Mr. Sykes thanked Mr. Drewett for all the time and work he put into this. He is not leaning one way or another. He thinks there are a lot of advantages to the City still being in control. He said they did not have good leadership running the Marina and if they found the right person, it would make all the difference in the world. They really need to know what they are up against here. He loves and respects the plan that Mr. Drewett put forward, but the \$100,000 immediately will not go very far. They have been trying to get the bathrooms done for a long time. They need better facilities here. This could be a good business and will cost a lot more than they think. He needs to know what the plan is to pay for it. He said he would really like to have the engineering study done so they know what they are dealing with. Whether they proceed with a new Marina Director or not, he thinks that has to be put into place now. He asked how long it would take to do the study.

Mr. O'Connor thinks it would take quite a while to do an extensive engineering study and he thinks they need somebody there to help work through the process. The City is going to have to pay for that no matter what. Then they have two (2) ways of doing that, hire a management company and pay for the engineering or hire someone that will carry the ball forward as a City department and more than likely they could manage that study better through their own Department Head than through a management firm.

Mayor Howle opened the meeting for public comments. He said he has been speaking with a man who lives here in Vero and is an avid boater. He told him to bring his suggestions to City Council and let them know what his ideas are. He read Mr. John Larick's letter into the record (on file in the City Clerk's office).

Mr. Paul Kolodziejczak said he was speaking on behalf of his neighbor who sent him with a letter. He said they are snowbirds and they keep their boat at the Marina when they are gone. He feels this is a quaint small community, which makes it unique. He feels like the Marina staff has always done a good job and what they have to deal with there, he feels they do a very good job. He would like to see it maintained by the City and not put in private hands. He said there are other private high-end facilities for people who want that. For people on more of a budget within the community, they can use the City Marina. He said it does need to be upgraded. He talked about the disadvantages when parks and ballfields are privately owned. He definitely wants to maintain city ownership of the Marina and have them hire someone and let them do their job.

Dr. Zudans said one (1) of the conditions is that it will always be open to the public.

Mr. Mike Johansen, of Vero Beach, said his feeling and those of his neighbors around him are that they would like to see them keep the Marina. He doesn't see where they can go wrong hiring a top notch person. They all agree that the Marina has had it's problems

in the management area and in not getting money that it needs. He asked what do they have to lose. They can get the study done and hire someone and give them five (5) years to have it improved and if it doesn't improve, they can make changes. They need to get someone that can do the job.

Dr. Jeff Tindle said he lives in Riverside Gardens just opposite of the Marina. He has a lot of data watching this Marina. It is not run well. Fees are not always collected. Holding tanks are pumped into the water. There are cars parked and trailers parked. He doesn't see in the Oasis Marina proposal any advantage to having a group like that do this. This group has plans that require the City to give up a lot of control to a group that would do whatever way they think and in the private sense would make money. There could be restaurants, a Tiki Bar and additional people. What about the residents and the area? If they put a restaurant there, they would have to take parking from somewhere. He is in agreement with the previous speaker in that management is the key and they really need someone who manages it well. He said Oasis Marina had some good ideas and perhaps can use some of that instead of giving it all up to some group that doesn't have their interest at heart.

Mr. William Edelstein, of Grand Harbor, said he is one of those boaters. He came here and settled here because of the Municipal Marina. This is known as "Velcro Beach" because you come as a boater and stay because it is so nice. He said it is a particularly unusual jewel on the coastline. He hears some very conservative thoughts by Mr. Drewett and thinks he is very much in line. He thinks they will find the improvements that need to be done at the marina are not as bad as they think. It could be done in a conservable manner over time. He also has a northern home on the Chesapeake Bay where they have several marinas that suffered these same problems. They've been given over to management contracts. He said these things have a lot of proposals and promises and the long term results are generally disappointing. He said they should continue the operation of the Marina as a City owned property.

Mrs. Phyllis Frey said that she agreed with Mr. Drewett's plan. She then read a prepared statement (attached to the original minutes).

Mrs. Linda Hillman stated that government should not be in the business of running marinas, yet not every government has a golden egg, a beautiful marina as they do or have the opportunity to increase their revenue by running one. This Marina has not been managed properly in the past. It has been overlooked. There has been a lack of concern and money has been taken out of the budget and all of this has contributed to decline. She agreed who would come here for 60/90 days while an RFP is being looked at. She questioned when the Marina Director has gone, who is going to run this Marina for us. The opportunity is right here now. If it takes more than \$100,000 to get the marina running well, let's do it. She supports Mr. Drewett's plan and asked the City Council to think about the opportunity they have to keep their waterfront beautiful.

Mr. Yearagin said he has lived here and has been visiting the Marina since he was eight (8) years old. He believes new management would help. He said it is time to start

addressing the environmental problems. He asked the City Council to keep the Marina simple.

Mr. O'Connor said an environmental subject keeps popping up implying they are not doing pump outs. He gets a weekly report on the Marina. One (1) week they did 67 pump outs, so they do pump outs. He added that the Finance Department collects those fees for the boats at the dock just like they do rentals. If they don't pay it then it goes to a collection agency. He pointed out that at the Marina, most people stay fairly current on their fees.

Mrs. Saskia Fuller said that they went on a 15 month sailing odyssey out of Vero Beach. She said that hundreds of miles away, another captain waved and said "Velcro Beach," which she had never heard. She said Vero Beach is recommended and sailors praise the town of Vero Beach where they have a safe and welcoming Marina. She had the opportunity to work at the Marina and she loves her job. They are much more than operational staff and are ambassadors for the town. They lend a helping hand when needed and ensure people feel safe in their floating homes. They offer a mobile pump out service three times a week. Right now there is a staff of five (5), with two (2) full time and three (3) part timer employees. There is a total combined of 60 years of marina management and operations experience. The Marina has been a part of Vero Beach for 90 years and should be maintained and have the opportunity for improvement. If given a vision and guidance and cooperation and funding, she believes the current staff has the ability and know how to maintain and improve the Marina. Right now the goals that were not mapped out are the ones they are judging them by. They are willing to give away power over a financially solvent and successful entity, which if given to an outsider they will have no control over. She said the Marina is truly a unique asset to Vero Beach.

Mr. Greg Page said he is also a sailor who came to this City through sailing and has stayed at the Marina the past five (5) years and it has been "Velcro Beach" to them as well. He said each year they have stayed here though the Marina seems to be getting worse. He said management has been deteriorating and they are doing something about that now. He disagrees that they should not be in the business of the Marina. It is always going to be a business and also an amenity of the City. He thinks it would be a mistake to consider going outside for management. They have an opportunity to bring in a manager now who can be very good. He said going out for an RFP will not gather as much information as they could otherwise. They should hire a Marina Director and begin implementing some of the things and put in place a vision that will guide what they do in the future. He suggested they could engage a marine consultant to do an analysis of how to go forward and they can get that going at the same time.

Mr. Ken Daige said they have heard from quite a number of folks that they do not want the Marina sold or leased. He added it is in the Charter as protected property. Out in the community they are saying they don't want it leased to a commercial entity and they like it as is. Yes, it needs improvement and that can get accomplished. He urged the City Council to keep the Marina, and go forward and do the improvements as needed.

Mr. Brian Heady told Mr. Young that he appreciated his point of view. It is not the first time he heard that some City department was not being managed properly. He said some managers have told City Council what they need and then City Council cuts out everything that they need from the budget. He said it is difficult for City employees to listen to the controlling body bash them about not being able to do their job when you don't give them what they need to do their job. He said to keep the Marina and hire someone.

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

Mayor Howle said they have done one (1) RFP and did not have any luck. He agreed they are not stuck with anything. He said if they hire someone and they do a great job, to keep going and if not, they could put it back out to an RFP.

Mr. Sykes said this was an exercise exploring possibilities on the best way to approach this issue. He thinks because the Marina is such an integral part of Vero Beach, they should retain ultimate control. He is in favor of hiring the right Marina Director who could oversee an engineering study and work with citizen advocates, such as Mr. Drewett, and in conjunction with their Marine Commission and hopefully quickly improve the success of this enterprise.

Mr. Young said the biggest liability to the Marina over the years has been the resolve of the City Council. If they lead as they should lead, then the Marina will be fine. Yes, they need to look at ways of doing things better but in the end, they support the staff that is here and if they see areas they want improvement on, it is incumbent on them to move down that road.

Councilwoman Moss said that she appreciated Dr. Zudan's point. But, we already have a Marina and it is who we are.

Dr. Zudans said if they are going to rely on government to run the City Marina, it is going to continue to be the same kind of Marina in five (5) years in his opinion. He stated that there are certain essential things that the government is supposed to do, including having the Police and maintaining safety for their community, but they do not need to be in business. They are not here to make a profit off of the citizens. There are some things that can be done much better. He said this will not work out well and the Marina will not do well. It would be in much better hands if they had someone that this was their business. He took offense to the comment that the people who are interested in this don't have their interests at heart. He said one of the people who made a proposal has been in this community forever and are running a very successful marina in Brevard County. They were also in the Citrus business and have been here for a long time. These are business people who have been in their community running businesses. He said government does not have to run everything and they should get out of the way of the private sector and let them do their thing.

**Mr. Young made a motion that they hire a Marina Director and do an Engineering Study under the direction of the Marina Director and the City Manager.**

**Councilwoman Moss seconded the motion and the motion passed 4-1, with Dr. Zudans voting no, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

**3) Mr. Brian Heady to speak on Public Parks – Sponsored by Councilmember Tony Young**

This item will be put back on at their next meeting and heard when the Council Chamber equipment is working.

**F. Public Comment (3 minute time limit).**

**\*Please note that the Public Comment section of the meeting was held after item 5-A).**

Mrs. Frey talked about their Parks and how important it is to keep their Parks and not relinquish their lands. She then read a prepared statement

Mr. Sykes was curious as to why Mrs. Frey did not speak during public comments when the quasi-judicial hearing was being heard.

Mrs. Frey said that she lost track of where they were on the agenda.

Mr. Brian Heady stated that he would have spoke earlier and said that he had no problem with the Council approving the Rowing Club requests, but with the clear direction that they are using taxpayer's land and no child should be left out because they don't have the money to pay to be in the program. He knows that it is an expensive sport. He commented that on the consent agenda was the Municipals Election Agreement (item 3-A). He asked if he was a candidate in the February election. His concern was there was an election one (1) time where someone was qualified to be on the ballot then thrown off of the Council. He asked the Interim City Attorney if he was a qualified candidate or not.

Ms. Kira Honse, Interim City Attorney, told Mr. Heady that his name is on the ballot and that he was a qualified candidate. She explained that the incident Mr. Heady was referring to where a person was not allowed to serve as a City Councilmember had to do with the residency requirements. She said that qualification cannot be challenged after the Election.

Mr. Heady said that he now understands that after the Election no one can challenge the fact that he is a qualified candidate.

Mrs. Mary Sue Walker passed out some information to the Council. She then read a prepared speech (attached to the original minutes).

Mr. Robert Dilson (spelling may not be correct), said that he owns a boutique on Ocean Drive. He referred to the speech that Mrs. Walker read and said that he has friends in

Dunedin who talked to him about the parking garage that they have there. He would like to see more parking spaces added in this area, but not have a paid parking facility.

Dr. Zudans expressed that the City Council has received the message that a large portion of the population do not want paid parking. He said that they have been exploring paid parking along with other options and the question that is being asked is how do they pay for a parking garage. He said personally he was not in favor of paid parking nor did he say that he was. The City Council has heard that paid parking is not going to fix this and they still have a parking problem that has not been fixed.

Mr. Dilson said the beach area generates bed tax and maybe some of that money could be used for a new parking garage.

Dr. Zudans explained that they have no control over that. His point in voting against the County on the Dodgertown property was only to gain leverage in trying to get those bed tax dollars. He agreed that probably the solution to the parking is going to be a parking garage if they can figure out how to negotiate it. He said the businesses on Ocean Drive would probably have to have a tax assessment put in place in order to pay for their fair share.

Mr. Dilson suggested asking the City Attorney to do some research on this. Would a parking garage be allowed to be built using tourist tax dollars (bed tax dollars).

Councilwoman Moss commented that she has been working on this for the last two (2) years. If Mr. Dilson would like to see all the correspondence that has taken place between her and the County she would be happy to send it to him. She expressed that the funds generated in the City should stay in the City. Her email address is [lmoss@covb.org](mailto:lmoss@covb.org).

### **3. CONSENT AGENDA**

#### **A) Municipal Elections Agreement**

Mr. O'Connor reported that this Agreement includes the cost that the Supervisor of Election charges to handle the Special Call Election on February 26, 2019 and the Regular City Council Election on November 5, 2019. The charge will be \$2.00 per registered voter.

Councilwoman Moss said that she had a statement to make about that because she does not know what they are actually getting. She had a conversation with the City Attorney on this so she will ask her to comment after she has made her comments. She said that a lot of people do not know that there is a second or so called Special Election being held. She expressed concerns about this and Mr. Heady also has expressed concerns about this. She expressed concerns about this to the Press Journal on September 23, 2018. She read the excerpts from the newspaper: *"Moss said she had concerns about how the Special Election would confuse voters. I have an issue with anything that undercuts voting*

*turnout. They could reach a historically low voter turnout in this. Swan (Leslie Swan) Supervisor of Elections agreed voter turnout likely would be low during the Special Election. I think people are going to be confused. The situation has never happened before in Vero Beach City officials say.”* Councilwoman Moss said from her own experience maybe it is a good thing that signs are out, but people don’t realize why the signs are out. She realized that just the other night. She was standing on Indian River Drive East with a sign, which she has permission to put it on their lawn and then some people who voted for her were driving by and rolled down their window and offered to help her to take down her signs. She had to explain to them that she was putting up her signs and they wondered why. Even people who are supporters and reach out to a candidate don’t know about this Election. She goes a lot of places. Even people who have seen the signs do not understand. A big part of it will be how they handle it. She wanted to go over what happened on November 6<sup>th</sup>.

Dr. Zudans asked Councilwoman Moss if she had an issue with the Municipal Elections Agreement, which is what they are talking about now.

Councilwoman Moss answered yes, because they are going to vote on what is covered in the agreement. She said what she does not see covered is problematic. She said on November 6<sup>th</sup>, Election Day, the total number of votes cast was 13,996 votes or almost 14,000 votes. Of those 14,000 votes on Election day itself 4,910 votes were cast (35% of the votes were cast). Vote by mail was 5,234 (37% of the vote) and early votes represented 3,825 (28% of the votes). The percentages represent that only 1/3<sup>rd</sup> of the people that actually voted on Election day.

Mayor Howle asked Councilwoman Moss what was she trying to accomplish with all of these figures. He asked if this was a campaign thing that they were doing.

Councilwoman Moss answered no. She said what they are voting on does not include early voting. She asked do they understand what they are voting on here.

Mayor Howle went over the different things that they were paying for, which does not include early voting.

Mrs. Tammy Bursick, City Clerk, explained that when an Election is held and it is just the municipalities that early voting does not take place in their Elections.

Councilwoman Moss explained that this is the conversation that she is trying to have. To make it fair. For the community she did not vote in favor of this and neither did Dr. Zudans. She said that Mr. Young, Mr. Sykes and Mayor Howle voted to have this so called Special Election. She said even if you want to make it similar on what they are about to vote on they would need to add \$4,000 to it to cover early voting, which would be for eight (8) days. She referred to the agreement, which quotes that the cost to hold the Election when a County Election is held is .50 per registered voter and in this Election it will be \$2.00 per registered voter. She said this works out to about \$24,000 and does not include early voting. Her concerns with vote by mail are with whatever the

address that the Supervisor of Election has for you is where your ballot will be sent. She said some people might be one place in early November, but in Vero Beach for the month of February so if their ballot gets sent up north they may not receive it, which is problematic. She urged people if they are going to vote by mail it is easier just to vote on the Special Election day, which is Tuesday February 26<sup>th</sup>, but if they are going to vote by mail that they need to be sure they know where their ballots are going to be mailed. She said a lot of people don't even know about this Election, which brings her to her last point and then they can talk about early voting. She said that the Supervisor of Election's advertising budget for the 2018 General Election is \$12,314, which was supplemented with Federal funds. She said for the municipal election not held with this one their contract stipulates the total cost of advertising will be approximately \$1,500. She showed some advertising that was done in Rhett Palmer's Vero Voice for the Election of 2018, as example of what will not be covered by \$1,500. To address the points made earlier by Mr. Heady, they don't know how many people are going to vote in this Election.

Mayor Howle commented that Councilwoman Moss was arguing about something that was going to occur whether she gives them her opinions or not.

Councilwoman Moss said they are going to decide how much to spend on it. Mayor Howle said it is going to cost what it costs to have the Election. Councilwoman Moss asked are you going to have early voting. Mayor Howle explained that the military votes have already gone out, so the process has started.

Dr. Zudans said what Councilwoman Moss is trying to say and she could have said it in one sentence and that is to add in early voting for an additional cost of \$8,000.

Councilwoman Moss made it clear that early voting was \$4,000 and previously on advertising \$12,314 was spent and right now \$1,500 is budgeted. She said that every vote is a voice. They decided to silence them.

Dr. Zudans said in his opinion this Election is the same as when he ran (off-year election) and everyone knows ahead of time that there is no early voting and you run your Election based on knowing that. He estimated the turn out for this Election would probably be around 20%, which is what it was when he ran. He said with off year Elections this is what it is like. He said it didn't happen the way she wanted it to so let's move on. He did not think that they should add in another \$8,000, which would be a waste of money for the City. He expects the Election results are going to be exactly like the last one and they can move on and get passed this thing.

**Mr. Sykes made a motion to approve the Municipal Elections Agreement. Mayor Howle seconded the motion and it passed 4-1 with Councilwoman Moss voting no.**

**B) Expenditure of Funds from the Historic Preservation Commission not to exceed \$500**

Mr. O'Connor reported that the Historic Preservation Commission (HPC) is asking for money for banners and the Chairman of the HPC is at today's meeting to explain the request. He said there is no budget for the HPC so the money will probably come from the Planning and Development Department and the City Clerk's budget.

Mayor Howle questioned in what part of City's history have they ever given money in this manner.

Mr. O'Connor explained that the City hangs banners for others, but the others raise the money for the banners.

Mayor Howle explained that he has no problem with banners being hung as long as it meets their Code.

Mr. O'Connor said the banners that hang from the poles would meet their Code requirements. He was not sure about the banner that the HPC wants to hang at City Hall. He was not sure whether that banner would meet the sign Ordinance requirements.

Mayor Howle had some concerns that the City never has provided money for this sort of thing. He felt that the money should be raised independently.

Ms. Debra Atwell, Chairman of the Historic Preservation Commission, said that she was at today's meeting because the HPC has placed a budget request on their agenda. She said that the HPC started talking about these banners in November and they should have been hung up for the Christmas holidays. They are campaigning for the historic virtues for homeowners and having a total of nine (9) banner flags that capture the public's interest and keep this topic on trend and familiar will help them insure success. Their expense will not exceed \$500 and they will be purchasing flags similar to the ones hung throughout the Cultural Arts area. She passed out a picture of what the banners will look like (attached to the original minutes). She said the existing locations are all spoken for. She said that the Main Street Director has offered half of the existing brackets on 14<sup>th</sup> Avenue to be used for the banners, which will represent a huge savings. The primary impact banner will be 4 x 12 with the same design to be hung initially outdoors at City Hall. She said hanging the banner will demonstrate local governments official endorsement of historic home designation. She said there are many people in their community now who are fearful that their architectural features are not being recognized and valued by local government and are therefore under serious threat. The banner being hung at City Hall will serve to show historic preservation intentions and they will still continue to identify their historic resources promoting the value to the community.

Mayor Howle told Ms. Atwell that he did not have a problem with what they were proposing. He said the problem is the \$500 that they are requesting. He said the design is beautiful. He suggested that the HPC go and find the money for the banners.

Dr. Zudans added that the people buying a flag for their house could pay for the flag.

Ms. Atwell explained that people are not buying flags for their homes. The flags are there to brand what they are doing and put it out in the community. They do have a website and in addition to that they have to have a news blast setting the intention. She said this is their Centennial year and the time to hang a flag. She said people will come forward this year because it is meaningful for them to do it now.

Dr. Zudans asked Ms. Atwell if she felt that a Go Fund Me page could raise \$500 in about a week.

Councilwoman Moss told Ms. Atwell that she thought that her Commission was doing a great job and this is a very minimal amount so she supports it fully. She suggested that this item be voted on separately.

Mr. Sykes commented that the HPC understands how to navigate the process for historic home designation. Ms. Atwell said correct. Mr. Sykes suggested just going to those homeowners and help the individuals get the designation. He asked why do they need to put up banners.

Ms. Atwell explained because they are a Regulatory Commission and what they should be doing is looking at the applications when they come in for properties that have already been designated and weighing in on the changes that are being proposed. This allows them to assist the homeowners in guiding those changes in a way that still allows them to retain the integrity of their buildings.

Dr. Zudans asked what does that have to do with these banners.

Mr. Sykes asked what is the idea behind this. Does the HPC want the general public to know that they can designate their home as an historic site.

Ms. Atwell explained they are trying to generate more interest in that and get the public to come forward and be part of something that looks inviting. There needs to be some incentive for people to come in.

Mr. Sykes asked if there were tax exemptions for historic homes.

Ms. Atwell answered yes. She said the tax exemption is really no more than just a thank you. She said that the County does not participate. She doesn't want to continue reaching out to someone like the Historic Society, because they do everything and they shouldn't have to be asked to pay for something that the City does. This is the primary thing that they (HPC) exists to do. They cannot function in their regulatory capacity until they get a volume of homes that are designated. They are trying to create a welcoming atmosphere.

Mr. Young asked Mr. O'Connor if the HPC has a budget. Mr. O'Connor explained they do not have a budget. Mr. Young asked if there was any opportunity to get this money from other ways. Mr. O'Connor explained that if the City Council approves the \$500

then he will find the money. Mr. Young felt that \$500 did not seem like an inordinate amount to facilitate what needs to be done and affirm what the HPC has done and this is an inexpensive way of doing that.

Mayor Howle cautioned that other Commissions will be coming forward asking for things to be paid for.

**Mayor Howle made a motion to approve this item without the expenditure of \$500. Dr. Zudans seconded the motion.**

Mr. O'Connor clarified that there was no problem with hanging the banners as long as they meet the Code, Council just does not want to approve the expenditure.

Mr. Ken Daige hoped that there would be three (3) votes. He said it is an expenditure and it is seed money. He suggested to Council to do it as a seed thing and the money will come.

Mayor Howle commented that he has volunteered years of his life to this City and has never asked for anything.

Mr. Daige understood that and said all he was asking was to get this going.

**The motion passed 3-2 with Mr. Young and Councilwoman Moss voting no.**

**C) Solid Waste Franchise Agreement for Roll-off Containers – Republic Services of Florida, Limited Partnership**

Mr. O'Connor reported that this is for a franchise agreement for a roll-off container service with Republic Services of Florida, which expired on August 22, 2018.

**D) Conveyance of City-owned Right-of-way located at Atlantic Boulevard and 42<sup>nd</sup> Avenue to the State of Florida Department of Transportation**

Mr. O'Connor reported that this a City Deed pursuant to the State of Florida Department of Transportation's request to take ownership of City-owned right-of-way located at Atlantic Boulevard and 42<sup>nd</sup> Avenue for the transportation project at State Road 60. The property is not needed for City purposes. The conveyance includes a portion of 42<sup>nd</sup> Avenue and Atlantic Boulevard right-of-way dedicated by most of the Poinsettia Park Tract A previously dedicated by the City for right-of-way use pursuant to Ordinance 2015-18.

**E) Public Works Compound Roof Replacement – Contract C-25-2018 – Change Order #2 – Increase Contract by \$20,225.00**

Mr. O'Connor requested that City Council approve the change order to the contract with Summit Construction to make additional structural repairs to Building I in the amount of

\$64,225 and remove repairs to Building J reducing the contract by \$44,000 for a net increase of \$20,225.

**F) Memorandum of Agreement with IRC School District (Cost to City/Airport: \$0.00)**

Mr. O'Connor presented a proposal to provide ESE students as volunteers to assist with various jobs at the Airport Terminal building. This allows students and teachers to work around the Airport doing something that benefits the City with no cost to the City.

Councilwoman Moss had some concerns about this opening the City up for a lawsuit.

Ms. Honse explained that the student has to sign a waiver, which removes the City's liability. It will be between the City and the participants to sign a release form, which indemnifies the City.

Councilwoman Moss said it was not a good thing to take on more liability.

Mr. Eric Menger, Airport Director, explained that he was approached last year to put the documents together to reduce the risk of entering this agreement. Adults will be there with the students and there is a need for the Airport to have some free services. The students will be picking up trash just in the parking areas before and after flights come in. The City just took the opportunity to have some volunteers come in to help and he felt that it was win/win situation for everyone.

Mayor Howle commented that there are activities occurring all over the City that have risks.

Mr. Young brought up the Civil Air Patrol.

Mr. Menger commented that currently the Civil Air Patrol meets at Flight Safety and are looking at maybe changing their meeting place.

**G) 2018-2021 Teamster CT Contract**

Mr. O'Connor reported that approving this contract ratifies what the Union has ratified and approving the 3% salary increase.

**Mr. Sykes made a motion to approve the 2018-2021 Teamster CT Contract. Mr. Young seconded the motion and it passed 4-1 with Dr. Zudans voting no.**

**Mr. Sykes made a motion to approve items 3-C), 3-D), 3-E), and 3-F) on the consent agenda. Mayor Howle seconded the motion and it passed 5-0 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

**4. CITY COUNCIL MATTERS**

**A. New Business**

- 1) City Council Election to be held on Tuesday, 02/26/2019**
- A) Cost to be paid by City residents for Election Day 2019**
- B) Vote-by-Mail Problems**
- C) Budget to Early Voting**
- D) Budget for Promotion of the Election by the Supervisor of Elections**

**As points of information and for the convenience of all, the following documents regarding the history of this Special Election are attached:**

- E) Oath of Office taken by City Council**
- F) Vero Beach Code, from Chapter 30 – Elections:  
Section 30-3, Eligibility and qualifying for office of councilmember  
Section 30-6, Persons found ineligible to qualify as a candidate**
- G) All qualifying papers filed by Plaintiff Hillman**
- H) Memorandum from City Attorney regarding Vero Beach Code, Sections 30-3 and 30-6**
- I) Lawsuit filed against the City by Plaintiff Hillman on 09/17/2018; Summons, Complaint, and Notice of Priority Status**
- J) Legal-Opinion Letter regarding Disqualified Candidates (w/attachments) written by Attorney Ronald Meyer (Meyer, Brooks, Demma & Blohn, P.A.,) dated 09/27/2018**
- K) Hearing before Judge Kanarek on 10/24/2018, /transcript: /Cover Pages 1-2 and page 113**
- L) Results of 11/06/2018 Vero Beach City Council Election from IRC Supervisor of Elections Leslie Rossway Swan (voteindianriver.com)**
- M) Minutes of Special Call City Council Meeting of 11/27/2018**
- N) Court Reporting of the Shade Meeting of City Council on 11/27/2018**
- O) Settlement documents; Joint Motion; Agreed Final Judgment**

**Requested by Councilwoman Laura Moss**

**2) City-owned Dodgertown Property**

**Video Clip from City Council Meeting of 10/02/2018 (07:20:20 to 07:22:10 PM)**

**Mayor Howle/Councilwoman Moss/City Council Vote on Dodgertown**

**Requested by Councilwoman Laura Moss**

This matter was discussed earlier in the meeting.

**3) CERTIFICATE OF ACKNOWLEDGEMENT Florida Power & Light Company's Acquisition of the Electric Utility of the City of Vero Beach, December 17, 2018**

**Requested by Councilwoman Laura Moss**

Councilwoman Moss read the Certificate of Acknowledgement (attached to the original minutes) that the City Council and Florida Power and Light signed on December 17, 2018 for the purchase of the Electric Utility. She personally thanked Mr. O'Connor for his work towards accomplishing this and acknowledged Mr. Ted Fletcher and his team.

Dr. Zudans asked what was the purpose of that and why do they have seven (7) items on the agenda regarding things that they have already done and are irrelevant. There was a ceremony and they signed the document. He asked why are they doing this again. He said the meetings are so long because of items like this one and again asked why.

Councilwoman Moss stated this certificate was not available to the community and because it was short and only three (3) sentences and commemorates something that had a cast of thousands over decades she thought that it would be a nice opportunity to thank the City Manager and to acknowledge the hundreds of people that were involved in it.

**B. Old Business**

**1) Discuss Parking Options - Requested by Vice Mayor Lange Sykes  
Beachside Parking (2018-13) – Analysis of Center Aisle and One-Way  
Parking on Ocean Drive**

Mr. Sykes explained that the reason for bringing this up again was because the City Council has not taken any action on the parking situation. He suggested having City staff give them options on how to pay for a parking garage and then he proposed hiring a local firm like Kimley-Horn to conduct a survey to find out where they can add parking spaces and what possible parking solutions there can be with the exception of paid parking.

Mayor Howle commented that he liked the second suggestion. He said they have groups speaking for and against parking meters and groups that are for and against parking garages. However, they have not heard from a Traffic Engineer concerning this matter.

Dr. Zudans recalled that in their City government they have had Mr. Monte Falls, Public Works Director, go through and look at all of these ideas and the cost per space is way more than a parking garage. He wondered by hiring a consultant to do a study that they would get the same answer that they received from Mr. Falls, in which case they wasted money on a consultant.

Mr. O'Connor commented that the consultant idea gives the Council another pair of eyes to look at this. He said for seven (7) years they have been discussing this parking problem. He has not been able to find an answer to get a great enough number of spaces

to justify the expenditure. He said if they have a third party look at this they would have a reliable source making recommendations to them. He said the latest parking garage that he has seen that is a public/private parking garage is \$15,500 a space. He is not sure that everyone on Ocean Drive believes what he and Mr. Falls have been saying for the last seven (7) years. He said it is very simple how to pay for a parking garage. He said they will not receive tourist tax dollars. The key would be that they get a price for a parking garage and have a parking district. The simplest way of doing this is putting an ad valorem tax on the district that they define and that ad valorem tax only applies to the buildings there. This way they will find out if people are willing to pay for this. At least by having a third party look at this it will give them some perspective and they may come up with something that staff has not seen.

Mr. O'Connor explained that the City has Engineers already under contract that they can use to do this. He mentioned Kimley-Horn being a good firm to use. He said they are familiar with the site and the problems and staff could get a quote from them to do a study and he will bring it back to Council.

Mr. Sykes instructed the City Manager to get a quote and bring it back before the City Council at their next meeting to be voted on.

Mr. Young asked if the projected growth of the community will be taken into account when the study is being done.

Mr. O'Connor answered yes. He said their parking concerns are about three (3) of four (4) months and their parking capacity if they expand to a parking garage will be vacant most of the summer, but debt service on the parking garage will have to be paid. He said not only growth needs to be looked at, but also the existing condition.

Dr. Zudans brought up the idea of having a parking district. He asked could money also be used from the parking district for a shuttle that would benefit people located at the other end.

Mr. O'Connor said yes, but they need to define the parking district.

Dr. Zudans asked if there could be more than one (1) quote given to them from an Engineering Firm. He would like to see two (2) quotes.

Mr. Monte Falls, Public Work's Director, explained that they do have more than one (1) Engineering Firm on their list, but he would need to check with their Purchasing Manager to make sure two (2) quotes would be allowed. He said with the Professional Services the different companies should not be bidding against each other. He said you tell the firm what you are looking for and you either agree on the price or you don't. Then you move on. He has to make sure that arguing that price is not a violation of the Consultant's Competitive Negotiation Act.

Dr. Zudans said if he is allowed to get more than one (1) quote then please do so and if not bring the quote from Kimley-Horn.

- 2) **Municipal Marina (Council/Community Discussion)**
  1. **Video Clip from City Council Meeting of 11/20/2018 (03:56:30-04:03:52 PM) Councilwoman Moss/City Manager on Marina and Debt Service**
  2. **Debt Service of Marina, Series 2007A**
  3. **Vero Beach Code, Section 5.05**
  4. **Video Clip from City Council Meeting of 11/20/2018 (04:20:48-04:25:59 PM) Vice Mayor Sykes/City Attorney/Councilwoman Moss on Marina and Section 5.05**
  5. **Minutes of City Council Meeting of 08/21/2018, Proposed Leasing of the City Marina, Pages 34-35**
  6. **Minutes of City Council Meeting of 12/11/2018, Pages 6-8 including Mr. Drewitt's Presentation regarding the Marina and discussion thereof**

**Requested by Councilwoman Laura Moss**

This matter was heard earlier in the meeting.

## **5. PUBLIC HEARINGS**

- A) **Public Hearing on the Site Plan Application for Vero Beach Rowing: #SP18-000005**

This item was moved up on the agenda and heard at 6:00 p.m.

Mayor Howle followed the order of holding a quasi-judicial hearing. He read that this public hearing was for a site plan application for Vero Beach Rowing #SP18-000005. There was no ex parte communications that took place. The Clerk swore in those testifying at today's meeting enmasse. Mayor Howle announced that all diagrams, photographs and other exhibits referred to during the testimony or which you would like the Council to consider must be marked for identification and kept by the City Clerk.

Mr. Jason Jeffries, Planning and Development Director, gave a brief presentation. He said the application is to construct a two-story building with a floor area of 14,734 square feet for indoor boat storage, office, and an exercise/training facility located in MacWilliam Park. The City Council entered into a lease with Vero Beach Rowing, Inc. in December, 2015, for this site within the Park.

Mr. Jeffries briefly went through the site plan evaluation and said that the most relevant standards for review of this project and staff's specific analysis and findings regarding these standards are that staff finds that the site plan is compliant with the Land Development Regulations and it is compliant with the site design performance standards.

He said based on his analysis and findings, staff finds that the proposed site plan application meets the provisions for the site plan approval and recommends approval of the site plan to the City Council subject to the following conditions: 1) During construction and after final grading, no surface water runoff may be directed to adjacent properties, and all surface water runoff must be routed to approved drainage facilities or retained on site. All runoff from the site both design and after construction, must be free of pollutants, including sediment, prior to discharge. #2 – The applicant shall provide the Department of Public Works with a copy of Notice of Commencement and shall be subject to random inspections for compliance with Section 73.33 (Erosion and Sediment Control). #3 – The applicant shall comply with the tree removal application prior to the issuance of a certificate of occupancy or certificate of completion. #4 – The applicant shall submit the building height certification application prior to the issuance of a certificate of occupancy. #5 – Within 21 days of the placement of the lowest floor, submit to the Indian River County Building Department with a copy to the Planning and Development Department a completed Elevation Certificate. #6 – Upon completion of the building construction and prior to the issuance of a certificate of occupancy, submit to the Planning and Development Department a completed Elevation Certificate that certifies the as-built building elevation datum in NAVD and #7 – The applicant shall also provide the City of Vero Beach Public Works and Planning and Development Department with a copy of the final as-built survey prior to final inspection. The Planning and Zoning Board held a public hearing on December 20, 2018 and voted 5-0 to transmit the application for the Vero Beach Rowing site plan to the City Council for favorable consideration. Staff recommends approval of the site plan with the conditions as outlined.

Mr. Young asked what is the implication of the tree removal compliance.

Mr. Jefferies explained that either the trees would have to be replaced or money placed in the Mitigation Fund. He said the trees being removed in this case are Palm Trees. He said that the Oak Trees would remain on the property.

Councilwoman Moss referred to the Departmental Correspondence on page 2 of 3 where he talks about “Yard and Street” and it says required allowed is 25 and proposed is 72, which exceeds. She asked Mr. Jefferies to explain that. Mr. Jefferies explained that they are exceeding what is required. He said it is more than doubling what is required in their required setback. Councilwoman Moss said her other questions have to do with the use of the Club. She referred to prior minutes and noted that this matter did not originate with the Council in place today. She referred to the Council minutes of September 15, 2015, page 2, where Councilmember Winger was talking about the Rowing Club. She read from the minutes: *“He said since this is public land he would not want to restrict the public from using it. Mr. Ryan, Rowing Club Fundraising Committee member, said that he does not see that being an issue. It was the consensus of the Council to negotiate a lease with the rowing club.”* Councilwoman Moss turned to the minutes of the City Council meeting held on January 3, 2017 and read: *“Mr. Ryan was speaking and said that anyone can be a part of the organization and he said there is a fee charged to students and adults that are in the program and they expect to be offering programs for*

*free in the future. The facility is available to the community and it is not an exclusive Club. The upstairs part of the building will be where the exercise machines will be located. Mr. Sykes asked if there was any opportunity for the public to rent that space. Mr. Ryan said it is possible, but they do not want to compete with the Riverhouse.”* Then on page 26 she read: *“Mr. Coment explained that the lease is for 25 years and the Rowing Club pays \$25.00 a year to lease the property. Mr. O’Connor added that the Rowing Club is open to the public and to Youth Sailing organization.”* Councilwoman Moss said they heard recently that this is not necessarily open to the public although these minutes clearly indicate that was the expectation of the Council that voted on this originally. She asked what is the policy of the Rowing Club for access for the public to this building.

Mr. O’Connor explained that the dock would be open to the public. The other area will need to be secure in order for the Rowing Club to protect their assets. However, he said anyone wanting to be a part of the Rowing Club Association could not be denied participation in the program.

Councilwoman Moss went back to the minutes and read: *“Mr. Sykes asked about the membership fees to belong to the Rowing Club and Mr. Ryan explained for adults to row it is \$500 and for high school students it is \$800 and for middle grade school children it is \$500.”* She said this is from the January 3, 2017 minutes on page 26 and 27.

Mr. Chris Ryan commented that this is the sixth presentation that he has given to a different City Council. He made the point on how grateful he was to the City Council and to the City Manager in leading them through this process of where they are today. He went through a Power Point presentation (attached to the original minutes). He briefly gave the history of the Rowing Club. He said that they signed a lease with the City for the property that they use today. The lease states that they are required within two (2) years to have a building built. The docks are in place and are done and fishermen are using them. Our plan is to build a boathouse for the community. He said that rowing is healthy and it brings in tourism. There are scholarships available for people needing them and that apply. They are hoping that the City Council will approve the site plan and then they could start building within a few months.

Councilwoman Moss asked what would the public access be. She asked if there were any other groups that they offer discounted rates or special rates to.

Mr. Ryan said it would be open to all. They will not charge a fee to any disadvantaged group. However, it is not going to be a place where someone could come and use the bathroom. He said that they have a lot boats located on the first floor that are worth a lot of money.

Councilwoman Moss was comparing the Rowing Club with the Youth Sailing Foundation who offer free sailing. She said in terms of public access to this Club, that physically there is not a lot of public access. She asked if there was access in terms of feasibility that people can afford the fees other than physical access in terms of discounts

or special rates. She asked how is this not a private Club. She said the Rowing Club is being built on public land so it is a facility on public land for public use. She recalled it was stated in the minutes that it was not a private Club and she is trying to understand how it is not a private Club.

Mr. Ryan explained that they are a non-profit organization bringing rowing to the community. He said they offer a discount for the first eight (8) rowing lessons.

Mr. O'Connor commented that tonight they are really looking at the site plan as it conforms to the ground. He said operational procedures should not weigh in on their decision tonight.

Councilwoman Moss explained since this information was in the minutes of previous meetings she wondered if that was a concern. She asked their Acting Attorney this question.

Ms. Honse stated that in this matter Council is strictly looking at the compliance to the land development Code and whether or not it meets compliance. She said the lease document is where the issues of public and private use are addressed. She read specifically what the lease says. The intent is that the ground area is open to the public, but the building and secured area is under the control of the Rowing Club.

Mr. Young anticipated that this would move forward. He was trying to understand what kind of program that the Rowing Club will be putting forward to the community.

Mayor Howle asked Council to keep to the matter at hand and that was approval of the site plan.

Mr. Ryan continued by saying that they hoped their grand opening would take place at the end of the summer and they are planning it in conjunction with the Centennial.

Mr. Austin Moore, Director of the Club, added that this is an opportunity for the kids to have exposure to this wonderful sport. He said the chances of getting a recruiter for a rower is higher by having this Rowing Club. He said it is a tremendous opportunity for Vero Beach.

Dr. Zudans mentioned that he had two (2) children who attended St. Edward's school and this was the best sport that they played of all the sports they were active in. He loves to see rowers learning the sport.

**Mr. Sykes made a motion that based on the competent substantial evidence presented and the applicable code provisions the City Council grants the site plan application for Vero Beach Rowing with the conditions as specified by the Planning and Development Director. Mr. Young seconded the motion and it passed 5-0 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

**A. ORDINANCES**

**B. RESOLUTIONS**

**6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING**

**Public Hearing to be held on February 5, 2019 at 5:00 p.m.**

- A) 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 Land from Indian River County Designation M-1, Medium-Density Residential-1 to City of Vero Beach Designation RM, Residential Medium, for the property located at 3780 Indian River Boulevard, containing 7.46 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 and reported that the Ordinance would be heard at a public hearing on February 5, 2019 at 5:00 p.m.

**Public Hearing to be held on February 5, 2019 at 5:00 p.m.**

- B) An Ordinance of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designation of Annexed Land from Indian River County Designation RM-8, Multiple family Residential to City of Vero Beach Designation RM-8, Residential Multi-family Residential, for the Property located at 3780 Indian River Boulevard, Containing 7.46 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 and reported that the Ordinance would be heard as a public hearing on February 5, 2019 at 5:00 p.m.

**Public Hearing to be held on February 5, 2019 at 5:00 p.m.**

- C) An Ordinance of the City of Vero Beach, Florida, related to Animal Control; Amending Chapter 14, Animals, Section 14.1, Dogs and Cats at large prohibited, of the Code of the City of Vero Beach; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Police Department**

The City Clerk read the Ordinance by title only and reported that the Ordinance would be heard as a public hearing on February 5, 2019 at 5:00 p.m.

**7. CITY CLERK MATTERS**

- A) Reappointments to City Commission/Boards and Openings on City Boards/Commissions**

Mrs. Bursick reported that on the Tree and Beautification Commission there are three (3) full time positions open and the two (2) alternate members would like to be moved up to full members.

**Mayor Howle made a motion to move Mrs. Fran Robinson and Mr. Neal Roe up to full members on the Tree and Beautification Commission. Mr. Young seconded the motion and it passed unanimously.**

Mayor Howle announced to the community that there are several openings on the City's Commission/Boards that need to be filled.

Dr. Zudans mentioned at the last meeting that they may want to look at consolidating some of their Commissions in order to have more people serve. Mrs. Bursick said she would look into that and report back to the Council.

Mrs. Bursick mentioned that Mr. Richard Cahoy's term on the Planning and Zoning Board expired on December 15, 2019 and he would like to be reappointed. This item will be brought back at the February 5, 2019, City Council meeting for consideration.

Mrs. Bursick announced that there are two (2) alternate positions open on the Code Enforcement Board, one (1) full position open on the Fire Pension Board, one (1) alternate position open on the Historic Preservation Commission and three openings on the Tree and Beautification Commission.

## **8. CITY MANAGER MATTERS**

### **A) Draft Request for Proposal (RFP) for Management or Lease of the City Marina**

This item was heard earlier in the meeting.

Mr. O'Connor brought up the search for a new City Manager. He recommended putting a Request for Proposal (RFP) out for a search firm that can help. He said that he could have this back to Council in two (2) weeks for those who respond. The second matter would be to go ahead and advertise in the ICMA and the Florida League of Cities letting them know that there is an opening. He said that the parameters need to be laid out so the firm hired knows what the City Council is looking for. He said that a lot of the information is boiler plate information that the search firm will have.

Mayor Howle would like to see some people who know their ins and outs of the City to participate and apply.

Mr. O'Connor said that Indian River Shores has two (2) applicants that he is aware of that would be a pretty good fit for Vero Beach if they are interested in the position. He said by putting this out before they even get a search firm they may see a resume that stands out and says to them that this is where they want to go.

Mr. Young brought up the other aspect to this. He said in anticipating Mr. O'Connor's departure it would be prudent to have a person to cover in his absence until they have someone hired. He thinks that person would be Mr. Monte Falls and he would entertain him as the Interim City Manager. He told the Mayor that if he would like him to he would be happy to sit down with Mr. Falls if there was a specific aspect to this position that need to be discussed. Like the length of contract and compensation.

Mayor Howle agreed that Mr. Falls was well versed in the position and does a fine job in stepping up to the plate in Mr. O'Connor's absence. He feels it would be fantastic if they could get Mr. Falls to fill the position of Interim City Manager.

Mr. Falls stated that he appreciated the confidence and has told Mr. O'Connor that it is sad to see him go and that he has been great to work for. He has filled this position once before and it was a stressful time in his life to do that. He is not a trained City Manager and does not have the credentials that Council will be looking for, but he has worked for the City for 28 years, he loves what he does for the City and in the interim agreement if there are some terms that sets some time parameters that keeps them moving along on a schedule he would be happy to help out on an interim basis.

Mr. O'Connor said they would have to see what comes down the pike.

Mr. Young brought up the other opportunity that they have with this, which he thinks is prudent is that simultaneously they look at a replacement for a permanent City Attorney. He said if they have the credentials that they are looking for in the City Attorney's office, that individual could guide them in helping with the City Attorney search.

Mayor Howle commented that they have Ms. Honse sitting in the position as the Interim City Attorney and it is his hope that is something that works out for them in the long term.

Mr. O'Connor explained if they hire a search firm, that firm could hunt for a City Attorney also if that is what they want.

Dr. Zudans said that he would love to see the City Attorney's office downsize to two (2) attorneys. Their budget is up to \$500,000. In the last benchmark that was done it shows they are above what other people are paying. He is satisfied with status quo.

Mayor Howle agreed that if the two (2) attorneys can handle the workload and he thinks it is possible that they can, then that is great. If it becomes an issue then it will need to be addressed at that time.

Mr. Young commented that when looking for a City Manager one of their tasks would be to make recommendations back to the City Council.

Dr. Zudans asked Mr. Young if he was saying that the City Manager look at the City Attorney. Mr. Young said he was not an attorney. Dr. Zudans said neither is the City Manager. Dr. Zudans explained that there are three (3) Charter Officers who they are tasked with supervising and they are the City Attorney, the City Clerk and the City Manager. It is for the Council to decide who the City Attorney is going to be. While it may be good to get the advice of the City Manager, ultimately it is up to the City Council.

Mayor Howle noted that he has spoken briefly to Ms. Honse about this and if it gets to the point where the City Attorney's office has too many things coming in and there are concerns then they need to be addressed at that time.

Dr. Zudans commented that they will be going through the budget again this summer and to keep in mind every year for the next five (5) years they have to figure out how they are going to make up \$500,000 efficiency improvements and this will help towards next year. He said one (1) less attorney if it is possible is worth doing.

Mr. Young felt his perspective is if they put out the RFP requesting for City Attorney applicants this gives them a pool. He said Ms. Honse would be amongst the pool and they would select the individual that they feel has all of the attributes that they are looking for.

Dr. Zudans felt that the hiring of a City Manager was a more important issue right now. He is perfectly comfortable with the status quo and they are in good hands. He did not think that they should be focused on including the City Attorney in this search. That is his opinion and everyone has their own.

Mr. Sykes agreed that they needed to find a City Manager.

## **9. CITY ATTORNEY MATTERS**

### **A) Draft Proposal for the Election Ordinance**

Ms. Honse presented the City Council with the proposed changes to the Election Ordinance, as well as other changes being made by the City Clerk's office. She worked with the City Clerk and the Supervisor of Elections on this. She said she would attempt to answer any questions that the Council had.

Mr. Young complimented staff on doing a good job with this proposed Ordinance. He said there was one (1) recommendation. On page 2 concerning the qualification period. He said if the qualification period ends on a weekend the next available business date end of day would be the cut off. He thinks the intent of the Ordinance was to make noon the cut off period. He said the Ordinance needs to be consistent. Ms. Honse said that she would make the change.

Councilwoman Moss realized that staff was trying to please the Council, but felt that part of the Ordinance was more confusing and might leave them open to lawsuits in the

future. She referred to page 2 of 6, lines 9-21, where it adds language similar to the State Statues. She read part of the paragraph that was giving her concern: *“The City Clerk shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. Failure of the City Clerk to identify missing or incomplete filings prior to the close of qualifying does not absolve the candidate of the responsibility to file completed qualifying papers in order to qualify for the ballot.”* She thinks that this confuses the issue even more. The law was clear. She said every vote is a voice and the majority of Council consisting of Mr. Young, Mr. Sykes and Mayor Howle voted to disregard 13,996 voices. The law always was there and clear in terms of it being the candidate’s responsibility. She said if you have a Council that votes to disregard the law then it will not matter if the Ordinance is changed. She said frankly what she would take a look at is the Oath of Office and she would request that it be done. She read the Oath of Office, which reads: *“I solemnly swear that I will support, honor, protect and defend the Constitution and Government of the United States and of the State of Florida.”* Councilman Moss said maybe we also wanted to include that they are going to support, honor, protect, and defend the laws of the City of Vero Beach, which did not happen.

Ms. Honse explained that oath is a required form, which cannot be altered.

Councilwoman Moss said then maybe we need to add a second statement. She said since they are changing items anyway maybe that is something they need to ask people to sign (she is talking about having a second document).

Dr. Zudans asked if that was part of the Policy or part of the Statute.

Ms. Honse explained that it is part of the proposed Ordinance change. She said the first sentence is from the Florida Statutes and the second sentence is based on what they just went through.

Dr. Zudans said he was a little confused and there may be some merit on what Councilwoman Moss just said. He said if you say in the Ordinance that the Clerk will notify the candidate and then that it is the responsibility of the candidate it is like saying two (2) different things and giving a legal basis for someone who didn’t actually complete their document.

Ms. Honse explained it is a combination of both. She said qualifying is a two (2) step process. She said if someone wants to be collecting campaign donations they have to file and do their campaign work. Then there is a 14-day period prior to qualifying where the candidate can turn in their paperwork for the Clerk to look over their paperwork and make sure everything is correct. If the Clerk finds an error, it gives the candidate the opportunity to correct the error. If the candidate doesn’t come in and doesn’t correct the error, then they don’t qualify. It is still ultimately the responsibility of the candidate to qualify.

Dr. Zudans questioned so if they are trying to avoid the situation that happened before and they had exactly the same situation where someone didn't sign a document and the Clerk didn't realize it and the candidate was not notified will they be back in the same situation again.

Ms. Honse said no because she added the provision on page 5, line 26, that reads: *If after the close of qualifying and after the candidate names have been submitted to the Indian River County Supervisor of Elections for inclusion on the ballot, an individual with standing believes a candidate is not qualified, the individual may file suit against the candidate regarding the candidate's qualifications.*" She said names would not be removed off of the ballot once they submit them to the Supervisor of Elections.

Mr. Young commented that he followed and came up with some steps, which he thought was important in moving forward. They were to update the Ordinance, the Clerk's office to review the Indian River County Supervisor of Elections procedures, implement a candidate class, which will be held the first week in August, update where election records are being stored, implement file transparency procedures, web posting and content and timeline is going to be reviewed for that. He continued by saying examining the Canvassing Board procedures and now Canvassing Board procedures are only post Election and the time for forwarding filing to the Supervisor of Elections has been revised, require candidate challenge eligibility to be documented is completed. He said there have been significant updates made to the Ordinance and he thinks they are on track.

Councilwoman Moss asked staff to find out what the cost would be in the Municipal Election if it were to be handled by the Supervisor of Elections. She thinks that they are digging a deeper hole here and maybe it should not be handled here and handled by the Supervisor of Elections. They don't need to discuss it now.

Ms. Honse asked if Council wants the Ordinance to come back for first reading at their next meeting.

Councilwoman Moss said that she did not. She felt the Ordinance was worse than it ever was.

Dr. Zudans felt that the Ordinance contained a lot of improvements. His only question was that they were not creating a new ambiguity. He is fine with bringing it back to Council for first reading.

Mr. Sykes stated that the Elections Law is a very specific field. He wondered if it was worth asking an Elections Attorney to review the documents before they adopt the Ordinance.

Ms. Honse said she shared the Ordinance with the Supervisor of Elections who felt the changes would approve the City's process.

Mr. Sykes wondered if the Supervisor of Elections had access to an attorney through her office that could review this.

Dr. Zudans commented that the County Attorney works with the Supervisor of Elections.

Ms. Honse was not sure if the County Attorney would review the document, but they could check. She said the Division of Elections will not weigh in on it. They consider this a local matter.

Mr. Sykes just wanted it looked at so that this never happens again.

Ms. Honse felt that the biggest improvement and change to the Ordinance is that they will not be removing names from ballots once it goes to the Supervisor of Elections. She said if someone wants to challenge that then they can bring a lawsuit against the candidate. Then whatever the Court tells them to do will be done.

Dr. Zudans felt those changes in the Ordinance makes it a whole lot better. He personally is not keen on hiring another outside attorney.

Mr. Sykes explained he did not want to either. He was just figuring if there was a way to get a second opinion on this it would be good. He felt having the Supervisor of Elections handle the Election is an excellent idea and worth asking.

## **10. COUNCILMEMBER MATTERS**

### **A. Mayor Harry Howle's Matters**

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

Mayor Howle asked Council that they please not front load their agenda with multiple items that take up time and are unnecessary.

Mayor Howle felt that the Council needed to talk about shared parking. He will be putting it on a future agenda that is not so full.

Mayor Howle thanked Mr. O'Connor for his services and told him he was a very special person and he was appreciated. He told him that he has done a lot for him over the last couple of years. He is one of the most respectable men he has ever met and the City can't thank him enough for the work that he has done and his ethics.

Mayor Howle wanted to thank some of the people who really tackled the sale of the utilities to FPL and give them a Key to the City. They are: Mrs. Amy Brunjes, Dr. Steve Faherty, Mr. Glenn Heran, and Mr. Jim O'Connor. He asked the Clerk to prepare the keys to be presented to these people.

**B. Vice Mayor's Lange Sykes's Matters**

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

Mr. Sykes told Mr. O'Connor that it has been a privilege to have worked with him over the last couple of years. He was a great mentor to him and gave him confidence to make some tough decisions.

**C. Councilmember Laura Moss's Matters**

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

Councilwoman Moss also thanked Mr. O'Connor. She especially thanked him for how reliable and knowledgeable he has been and for his help he gave her the year that she was Mayor. She recalled the time that they drove back and forth to Orlando and it was very enjoyable, especially when they went through Christmas, Florida twice. She recalled that while she was Mayor she had to complete a form of evaluation for the City Manager and there was a question on the form that asked what would you change about him. She thought about this question for a long time and her answer was not a thing.

**D. Councilmember Anthony W. Young's Matters**

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

Mr. Young concurred with all the comments made concerning Mr. O'Connor.

Mr. Young reminded the public that next Wednesday night "National Night Out" will be held at Humiston Park.

**E. Councilmember Val Zudans's Matters**

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

Dr. Zudans thanked Mr. O'Connor for what he has done for the City of Vero Beach and in getting the sale of the utilities finalized. He said it was like winning the Super Bowl.

Mr. O'Connor commented that there were some challenges, but there were also some proud moments like getting the Old Diesel Plant sold and seeing it turned into the American Icon. He was happy that Mr. Falls was stepping into his position until they could hire a full time City Manager.

**12. ADJOURNMENT**

The meeting adjourned at 8:28 p.m.

/tb