

**CITY OF VERO BEACH, FLORIDA  
FEBRUARY 5, 2019 5:00 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 Rev. Robert Switz of Trinity Episcopal Church followed by the Pledge of Allegiance to the flag.

**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 – January 15, 2019**

**Mr. Sykes made a motion to approve the January 15, 2019 minutes. Mr. Young seconded the motion and it passed unanimously.**

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

Mayor Howle requested that items 5A-1), 5A-2), and 5A-3) be moved up on the agenda and heard before item 4-A). He removed item 2C-4) Proclamation from the 211 Awareness Week from the agenda. He also requested that item 3-A) be heard after item 2C-2).

Councilwoman Moss felt that they could discuss all the Dodgertown items on the agenda item 4-4) together when that item is heard.

Dr. Zudans requested that they keep the agenda in order for later items because the meeting seems to flow better that way.

Mayor Howle asked Councilwoman Moss if item 4-J) should be pulled from those documents and moved to another area.

Councilwoman Moss said no because it was for information purposes only.

**Mr. Sykes made a motion to adopt the agenda as amended. Mayor Howle seconded the motion and it passed unanimously.**

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

- 1) Mayor Howle to present Keys to the City to Mr. Jim O'Connor, Mr. Glenn Heran, Dr. Stephen Faherty and Mrs. Amy Brunjes**

Mayor Howle presented the Keys to the City to Mr. Jim O'Connor, Mr. Glenn Heran, Dr. Stephen Faherty and Mrs. Amy Brunjes.

- 2) Live Like Cole Foundation to present a check to the City for the Docks at Royal Palm Pointe**

Dr. Nick Coppola presented the City with a check to help pay for the repair of the docks at Royal Palm Pointe.

**A) Item moved up on agenda (Consent Agenda)**

**Royal Palm Pointe Dock – Hurricane Irma Repair (Job #2017-35) – Bid 070-18/JO – Contract C-19-2018 – Recommendation of Final Pay and Acceptance – (Cost \$31,725)**

Mr. Jim O'Connor, City Manager, reported that this project is funded from the Hurricane Irma expenses. The Live Like Cole Foundation offered \$58,352.50 to cover half of the cost of the Royal Palm Pointe Dock repairs. Staff is working with the State Emergency Response Team and FEMA to secure any funding that may be available to recover the additional cost as a result of hurricane damage.

**Mr. Young made a motion to approve the Final Pay and Acceptance. Mr. Sykes seconded the motion and it passed unanimously.**

- 3) Rotary Sunrise Days – February 15-16, 2019**

Dr. Zudans read and presented the Proclamation.

- 4) 211 Awareness Week – February 11-17, 2019**

This Proclamation will be read at the next City Council meeting.

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

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

- 1) Mr. Jason Brown, County Administrator, to speak on the Dodgertown Golf Course Property – Sponsored by Councilmember Tony Young**

Mr. Joe Flescher, County Commissioner, thanked the City Council for the opportunity to speak before them on the updated version of the possibility of a great transaction that can occur between the County and the City for the betterment of all citizens. He said this is important to him, the County Commission, and to the City Council. He said that he reached out to some of the Councilmembers to let them know that he was working on something to bring to the County Commission. He thanked Colonel Young stating that when he reached out to him, he stated that he would like to come and discuss it, along with the County Administrator. Mr. Flescher said they exchanged some information that he felt made the County's offer a better offer that they could all digest. At this time, Mr. Flescher asked Mr. Brown to present their offer to the City Council.

Mr. Jason Brown, County Administrator, thanked Colonel Young for speaking with them and keeping the discussion going. He reported that what they are presenting today is a slightly different offer than what was presented previously. The first change they made is that the County would provide the City the right of first refusal in the event the Major League Baseball (MLB) lease was terminated so the City could acquire the property back at a fair market value. So, the City can maintain control of the property should something happen with MLB. They also have increased the offer price from \$2.4 million to \$2.45 million, which exceeds the prior offer that the City had from another party. They maintained the additional deal components of the prior deal, which includes planting additional trees along 43<sup>rd</sup> Avenue. He said this will ensure that they have a Park like setting and not just an open field next to a busy road. He showed on the doc cam the draft conceptual plan (on file in the City Clerk's office). He reported that the County commits to constructing a walking/jogging trail similar to what is shown in the draft plan that would go around the property with a couple cut-throughs. He said some additional things that could potentially be done with the property in the future are a stormwater project and possibly a history museum. He felt the parameters of this deal present a win/win situation. This deal would provide reimbursement to the City for a portion of their cost and also commits the County to providing not just a grass field, but something that will be a nice open Park-like setting that will benefit the City, the County, and the community.

Mayor Howle asked what are the changes to their proposal.

Mr. Brown said there are two (2) new items. The first is the right of first refusal is granted to the City to be able to purchase the property back should the MLB lease go away and gives the City control of the property's destiny. The second is the County increased the offer price from \$2.4 million to \$2,45 million.

Mayor Howle said it is his understanding that no other parameters were changed from their previous offer.

Mr. Brown said that is correct. He said the walking trail, the trees, the restriction on the property that they will keep it as open space, conservations, etc. He said they also made some minor changes in which they worked with City staff to revise the contract initially presented to make it reflect these changes.

Mayor Howle said they discussed this in depth at their last City Council meeting and he is more satisfied with the terms today than he was at their last meeting.

**Mayor Howle made a motion that the City Council accepts this offer from the County. Vice Mayor Sykes seconded the motion.**

Mr. Young appreciated Mayor Howle and Vice Mayor Sykes in that he understands their advocacy has been very instrumental in making this Dodgertown Deal possible. He expressed his appreciation to Mr. Bob Solari, County Commissioner, for all his effort to making this initiative sale promising. He said in looking at what has been committed by the County, it will be a far better asset to our community than it is currently. He then thanked Ms. Alma Lee Loy and Mrs. Ruth Stanbridge. He said they are champions for our heritage and their work has paid dividends in that Historic Dodgertown is now part of the National Civil Right's Trail. He felt it was important to also thank County Commissioner Flescher and Mr. Jason Brown in that they helped him in that he was not convinced at the last City Council meeting that the City could confidently retain the character of the property should something go array. He reported that on January 22, 2019, he attended the County Commission meeting and expressed his appreciation for the Commissioners because he was disappointed with some of the rhetoric that occurred at the last City Council meeting and felt it was important for the Commissioners to understand that he understood the support they wanted to have for our community. He said Vero Beach is Indian River County and Indian River County is Vero Beach and the benefit of one should not come at the cost of another. He was advised by a strong supporter to speak and his objectives for Dodgertown has remained the same; to control the destiny of the property, to complete the Dodgertown Complex, to sustain green space and the recreational intent, and to honor the historic civil rights significance of the area, as well as to provide revenue for Vero Beach. The proposed revisions that were discussed address his concerns and it is his hope that the City Council will approve the offer.

Councilwoman Moss asked to follow up on that.

Dr. Zudans asked if they are going to address all of this.

Councilwoman Moss answered yes. She said that she was going to make a general statement and then she has specific questions. She asked Dr. Zudans if he had a specific question.

Dr. Zudans said no. He said that he was going to save his comments to when they actually address it.

Councilwoman Moss said as a general statement and as a follow-up; to control the destiny of the land, the best way to do that is to control the land. She said the City does right now. She said we do not need to sell the land. We do not need to do that and she is against selling the land. She said at this point everyone can count to three (3) (votes).

She said Mr. Young successfully has undermined the authority and bargaining power of both the City Manager and the City Council by announcing publically how he intended to vote on this matter and the City Manager did not support that number of an extra \$50,000. The City Manager was not part of that negotiation and did not support that. But with the bargaining power now undermined, where that leaves us she can't say. She finds it a bit ironic because while we have been worried about keeping Vero, Vero, now we are not even keeping Vero. We're selling it. We're selling the City. She doesn't view the City as an old car that you sell for parts, but she guessed some do and that's what they are doing. They are selling the City. She said we don't need to sell the City. We don't need to. We just don't. In fact, she didn't think they could do this first, legally, because if anybody read their contract, she did, it has to be free of encumbrances so you actually have to pay off the debt. She said you have to vote on the debt first before you vote on this. She asked that they think about that while she continues. She said right now that property is encumbered and their contract requires that it be unencumbered, for those who are not aware of that. If we pay off the debt; should we vote to pay off that debt, you, the City, including the debt, you will have paid approximately \$14 million. That is since 2005, the City will have paid \$14 million including the debt service. The County will have paid \$2.5 million and the County will own it. She said your land is gone. Your land is gone. Your land becomes their land. She said that she loves the County, but the City and the County is not the same thing. We are the City Council. Our responsibility is to you, to the City. That's our first responsibility; especially their fiscal responsibility. She thinks it's unconscionable to consider this and it's worse that this was done without the City Manager being part of this negotiation. She just finds that hard to believe. At any rate, with regard to specific questions, we are not controlling our destiny here. This has to do with the agreement. She questioned, may she ask specific questions. She said that she is looking at page one (1), the whereas, she read, "*MLB has stated that two of the concerns with the Historic Dodgertown parcel are parking...*" She said and here is where you need to pay attention. She continued, "*and future need for additional office space and/or hotel rooms near the property.*" She said okay, so that's in here so you can have hotel rooms. This is what we're voting on. She said here are your hotel rooms and office space. This is what we didn't want. This is what we said we didn't want. We were pretty clear about that on a number of occasions. But, it's in here folks. It's in here. She said let's continue. She said this is page three (3), Section 3.4. This is where we are and we're talking about deed restrictions. She then read from Section 3.4, "*As a further restriction to be recorded with the deed, for so 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, or ...*" She said guess what, yep. She said pay attention now. She continued, "*activities that are ancillary to and consistent with the use of the Dodgertown Property by Verotown, LLC.*" She said so whatever that business decides to do with that property is what can happen and this is exactly what we said we didn't want. We wanted the people to decide how this be used, not a company. She said this is what this means. You are giving it to a company. She said that she knows there has been a lot of kumbaya, you know, we are selling the City under the guise of kumbaya and selling it cheaply based on this. She said kumbaya is great, but not at any cost and it's your (the community) cost. You will be the ones paying

the bill on that. She asked Mr. Brown if he can please address that. She asked can this be stricken; can they take the language out of this.

Mr. Sykes said that he is not aware of any encumbrances on the property. He asked Councilwoman Moss if she would indulge him.

Councilwoman Moss said that is the debt service.

Mr. O'Connor explained that the City did not pledge the property. That was a loan that was taken, but it did not pledge the property so that is not an encumbrance on the property itself.

Councilwoman Moss said okay. She questioned, because their contract, which is quite lengthy, says that it's to be free and clear so it's considered to be free and clear.

Mr. O'Connor said that loan is independent.

Councilwoman Moss said okay, thank you. She asked can we address those questions.

Mr. Dylan Reingold, Indian River County Attorney, said that he just spoke with Mr. Brown and they would be happy to strike the whereas clause that states, *"MLB has stated that two of the concerns with the Historic Dodgertown parcel are parking and future need for additional office space and/or hotel rooms near the property."*

Councilwoman Moss questioned Section 3.4, (*"As a further restriction to be recorded with the deed, for so 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, or activities that are ancillary to and consistent with the use of the Dodgertown Property by Verotown, LLC"*).

Mr. Reingold said Section 3.4 is critical because what they promised the City is that they were going to utilize the property for passive recreation, for environmental projects, and activities that were ancillary to and consistent with the use of the Dodgertown property. He felt that they have always contemplated that is what they would be doing during the time MLB or Verotown, LLC would be utilizing the property.

Councilwoman Moss said well they don't know what that is, ancillary and consistent, with the use of Dodgertown by a company. She asked what could that be.

Mr. Reingold said that the County is owning it. What they were trying to do is make sure that if Dodgertown needed to expand or if the County needed to utilize some of the property to be consistent with the rest of what was happening at Dodgertown they would be able to utilize it in such a manner.

Councilwoman Moss asked Mr. Reingold to explain what Verotown, LLC is. She asked did MLB step in as the partner. She thought she read that MLB was going to step in in place of Verotown, LLC.

Mr. Reingold explained that Verotown, LLC is actually the entity that the County has the amended and restated agreement with.

Councilwoman Moss asked who owns Verotown, LLC, because we don't really know with whom we're dealing.

Mr. Brown said Verotown, LLC is the organization that has run Dodgertown since Mr. O'Malley became involved, which he thought was in 2011. He said MLB acquired wholly Verotown, LLC from Mr. O'Malley and the other partners on January 2, 2019.

Councilwoman Moss said her other questions have to do with Tourist Tax because she has seen that the County rewrote the Tourist Tax Ordinance. She asked, because she doesn't know, what portion of Fund 204 comes from District 1, comes from the City to the County. She said for those who are not familiar with Fund 204, that spring training facility, is one-percent or one-cent, as they like to say, of the Tourist Tax. She said the Tourist Tax comes from us and by "us" she means the City of Vero Beach. She said we are District 1. There are two (2) districts. District 1 is the City of Vero Beach and District 2 is everything else, so that comes from us and that's for the spring training facility so we've been paying part of the debt on this for years. She said if we had been able to pay part of our own debt on the Dodgertown property that we own, we'd be in a lot better shape.

Mayor Howle said that he didn't want to agree or disagree with that statement, but he does want to know how that's relevant to the approval of the sale.

Councilwoman Moss said because they (the County) are funding this with Tourist Tax so it's something that should be discussed, we should understand that. They are funding it with Tourist Tax so she would like to know about the Tourist Tax in Fund 204, how much of that comes from District 1. She said that she has already submitted that question to Mr. Jeff Smith and has not received an answer.

Commissioner Joe Flescher said he didn't know if it is clear, the nature of her question about the funding whether she is objecting to where the money is coming from or if Vero Beach is getting their fair share.

Councilwoman Moss said it is a very simple question. She asked how much of Fund 204 comes from us, the dollar amount, that's it.

Mr. Jason Brown said to be clear the County is not purchasing this facility with Fund 204 funds.

Councilwoman Moss said but you will be funding it for the next 10 years that way, with Tourist Tax.

Mr. Brown answered no. He explained that Fund 204 was setup to pay the debt service on Dodgertown when it was first acquired by the County, with participation from the City, in 2001.

Councilwoman Moss referred to a memorandum from Mr. Brown (attached to the original minutes). She said in summary, and actually this is your memorandum dated December 10, with regard to Historic Dodgertown Facility Lease Agreement, she is looking at page five (5), and it states that this is the situation, she read, *“Requires change to County Code to allow 4<sup>th</sup> Cent of Tourist Tax...”* She said and that’s Fund 204. She continued, *“to be expended to, “promote and advertise tourism in the State of Florida and nationally and internationally.”* She then went to the last sentence of the paragraph and read, *“The 4<sup>th</sup> Cent would then be used to fund traditional tourism promotion activities and ...”* She said this is where it gets complicated. Pay attention now. She continued, *“one of the first 2 cents would be used to fund Dodgertown facility needs (essentially swapping the 4<sup>th</sup> Cent for the 1<sup>st</sup> Cent).”* She said yes, this is the kind of stuff that goes on. She said and this is your memorandum. She didn’t come up with this.

Mr. Brown said the financing plan for this involved the County paying off a portion of the debt service when the County acquired Dodgertown, which was secured by, among other things, some half-cent sales tax from the County, \$500,000 a year from the State, and the 4<sup>th</sup> penny of the Tourist Tax. He said part of this financing plan is the County is paying off the amount secured by the 4<sup>th</sup> penny of the Tourist Tax so they are partially paying that down. They are taking that 4<sup>th</sup> penny and using it to fund a portion of their responsibility under the new lease.

Councilwoman Moss said in the new Ordinance, which she assumed passed. It was on their agenda. She asked did that pass.

Mr. Brown answered yes.

Councilwoman Moss said that passed, okay. She said and if it wasn’t changed, she read from page three (3) and page four (4) of the Tourist Tax Ordinance (Ordinance attached to the original minutes), *“Up to fifty (50) percent of the revenues to be derived from the tourist development tax levied pursuant to sections 210.01(b) and (c) of this chapter shall be pledged to secure and liquidate revenue bonds issued by the county...”* She guessed that is what Mr. Brown is talking about. She said so they are using that money to pay off, it says it right here, she continued to read the statement, *“revenue bonds issued by the county for the purposes set forth in section (a)(4) of this section.”* She said so, that’s one part of it and then it says, she read, *“Up to one-half (1/2) of the remaining revenue derived from the tourist development tax levied pursuant to sections 210.01(b) and (c) of this chapter may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in section (a)(1).”* She said it seems to her then that adds up to, if they are using half, up to 50% of the revenues, that’s about 1.5 (total).

Mr. Brown said no.

Councilwoman Moss asked so what is it then.

Mr. Brown explained what they were doing was taking that one (1) penny of the four (4) cents of Tourist Tax that they levy, that was previously used to cover the debt service, they are able to pay that off and they are taking those funds and using them to fulfill part of their responsibility for the new agreement with Verotown, LLC. They are also using County one-cent sales tax dollars.

Councilwoman Moss said and this might be a legal question, but according to Florida Statutes, and we all know this one, Section 125.0104, refers to organizations that are exempt from Federal taxation. She said they can use Tourist Tax for that kind of thing. She asked is Verotown, LLC a tax exempt organization because they are throwing a lot of Tourist Tax at this.

Mr. Brown said it is a tax exempt organization.

Councilwoman Moss said so they are tax exempt.

Mr. Brown said that is his understanding, yes.

Councilwoman Moss said okay because she wanted to be sure about that too.

Mayor Howle said that he is sure they have done their homework and figured out if the taxes were applicable.

Dr. Zudans said that he is not for or against what Councilwoman Moss is saying, but that doesn't sound right, a for-profit corporation with millions of dollars. He asked is it a separate not for corporation that they are affiliated with. He said that Mr. Brown stated earlier that it is a wholly owned subsidiary of MLB. He asked, which is it.

Mr. Brown said Verotown, LLC has been a non-profit, it is his understanding, since Mr. O'Malley formed it in 2011 and MLB has acquired the ownership of that organization.

Councilwoman Moss said MLB is not tax exempt. She asked who is the legal entity.

Dr. Zudans said just because you are a for-profit doesn't mean that you can't have non-profit affiliates as long as you have a non-profit mission that is for the public good. He asked Mr. Brown, is that what he is saying that is what it is.

Mr. Brown said that is his assumption.

Mayor Howle felt that rather than belaboring the entire day that they could move on to public comments.

Councilwoman Moss asked Dr. Zudans if he wanted to speak.

Dr. Zudans thought they were following the agenda order that they were going to have the presentations at the beginning and then when it came up on the agenda is when they were going to address it. That is what they discussed earlier.

Mayor Howle asked Dr. Zudans if he wants to address it now.

Dr. Zudans said that he wants to go through the agenda and when it comes time on the agenda to actually vote on it, they can vote on it.

Mayor Howle said there is a motion on the floor.

Councilwoman Moss said that she thinks they want to vote on it now.

Dr. Zudans said that he has a comment that he can make either before or after public comments.

Mayor Howle asked Dr. Zudans to go ahead with his comments.

Dr. Zudans read from a prepared statement, City Councils in the past have had the opportunity to make important decisions. Unfortunately, this institution has a poor history of making sound decisions. The worst ever was probably the FMPA (Florida Municipal Power Agency) Power Purchase Agreement where the City Council previously felt competent to make a \$2 billion deal amounting to \$100 million a year for 20 years. That deal ended up costing our City over \$100 million and we finally got out of the electric business. He said equaled bad decisions, the one (1) made almost 100 years ago to buy the privately held Vero Electric and getting into the government electric business in the first place. The cost of that decision easily exceeds the \$100 million FMPA deal for our citizens. Ranking three (3) is most likely the \$9.9 million purchase of the Dodgertown Golf Course, which under duress from a pending sale to a developer the City massively overpaid while the developer probably laughed all the way to the bank. After serving as a vacant lot with \$600,000 plus mortgage payment for years, there is finally an opportunity to do something with the lot. He understands the position of his fellow City Councilmembers and he will honestly say that he is happy to see it out of our City government independent of whether it is sold to the County or to a developer. He said that he personally would have preferred it in a private section, but in a sense it will be used by Major League Baseball for a profit business so he can live with that. He said if tonight, we, as a City Council decided to not further negotiate, he personally will vote for selling this entity to the County. But, his concern is that the negotiation was totally botched. Our responsibility as City Councilmembers is to look out for the best interest of our City and our negotiation with the County could not have been better. First, we had 10 years and seven (7) months to work out a fair deal. The lease was absolutely no rush. Second, the lease was already signed between the County and Major League Baseball so there was zero risk that negotiating the price of the sale to the County would threaten the

deal. Third, in order for the County to fill the terms of this lease they were hired to find event parking, not the City. The City had every bit of leverage to negotiate favorable terms in as much time as necessary to do so. The County had an appraisal in hand for \$3.2 million from September, 2018, for the property that they were offering us \$2.4 million for. He said that Mr. Young voted no, as he did, because they wanted it more favorable for the City and both before and after the vote three (3) weeks ago, the City Manager was interacting with the County Administrator attempting to negotiate a more favorable deal with the County closer to the appraised value. A week later Mr. Young announced that he would change his vote to yes for an increase value of \$50,000. He said it was his understanding that this reversal was done before speaking with the City Manager, totally undermining his attempts to a better deal. He said part of the new offer also included a right of first refusal. He said this may sound good until the details are understood. He said the \$2.45 million offer was \$750,000 below the appraised value. The terms of the right of first refusal to the City to repurchase the property at the future appraised value. He said that is zero risk to the County and amazingly may permit some future City Council to sink another \$750,000 plus into the Dodgertown Golf Course money pit if the County plans to sell to some developer some future City Council does not approve. He said in his opinion, it is important for a City Councilmember to not negotiate the terms, especially unfavorable ones, without involving the City Manager. He said this could have gone much better on the sales price, right of first refusal, and the potential to work together on a bed tax money project that was mutually beneficial. Instead a candidate for office used our City's negotiating leverage for whatever reason weeks before an Election. He said that is unfortunate. The right thing to do would be to continue negotiations between the County Administrator and the City Manager and minimize the freelancing. He said it would be better if Mr. Young withdrew his support and decided to continue the negotiations between our City Manager and the County Administrator to find something that truly was a win/win/win for everyone. He asked Mr. Young if that is something that he would consider doing.

Councilwoman Moss said that she would ask that as well, thank you.

Mr. Young said he believes that the terms of the deal that have been presented should be supported. He said he said that previously and he sticks to it this evening. He felt that the comment that he made about having faith in the County to do what they said they will do in regards to Dodgertown is something that he can have faith in. If they want to say its poor negotiations, he feels that the deal that is there is something that supports the community across the board and brings the community what they have wanted while protecting green space and the recreational aspect is the objectives that he had. He said the objectives that he had have been met in the deal and he thinks they are sufficient.

Councilwoman Moss said it is not a matter of faith. It's a business deal and the City Manager should have been involved.

Mr. Young said his feelings are that in the discussions for the City Council, the offer that was provided to the City, if there was a matter that was so inordinate that the City Manager would have raised that to his attention and that was not the case. He said that he

did not intentionally undermine anybody and he feels very comfortable that he has a good working relationship with the City Manager and had the City Manager felt that he undermined him, he would have had the opportunity to share that with him and that was not the case.

Councilwoman Moss said that he made everything public beforehand. The City Manager was out of town that weekend and you are busy making everything public, talking to every newspaper, and at the County Commission meeting ...

Mayor Howle said it is his right to do so.

Councilwoman Moss said Dr. Zudans made some very good points.

Mayor Howle opened public comment at 6:04 p.m.

Ms. Phyllis Frey thanked Councilwoman Moss and Dr. Zudans for their important comments. She then read a prepared statement (attached to the original minutes).

Mr. Arthur Economy said the citizens of Vero Beach spoke at the last Recreation meeting. They want more Parks and green space. He said Dodgertown Golf Course can be added to the green space and it can serve to help clean our polluted Lagoon. The importance of addressing our Lagoon was made apparent to the City Council members who attended the Clean Water Coalition of Indian River County meeting. Based on the proven findings and impact to our health and economy, no opportunity large or small to cleanse the Lagoon should be ignored. He said they can address this issue and partner with the County to help MLB at Dodgertown succeed without selling the property. He said selling the Dodgertown Golf Course to Indian River County is the worst possible decision for many reasons. He said they are panicking and considering selling it below market value and all options have not been vetted, including public participation and input, the City takes an \$11.5 million loss, and the City has no control or guarantee that a green space will be created and that it is beneficial and widely assessable to the public. He said that is not in the contract. He read from the contract, *“For as long as the amended and related facility lease agreement for the Dodgertown property is in effect, the property will be used for passive recreation, environmental projects or activities that are ancillary to and consistent with the use of the Dodgertown property by Verotown, LLC.”* He said nowhere in the contract is there a description of properly designing and applying a water cleansing Park off the main relief canal and that public access use is non-committal. The County is not offering to expand public access or incorporate more water filtration into existing Dodgertown. The contract further offers the City right of first refusal. He questioned at what price. He said if the land is appraised at \$10 million then the County can ask for full market value and negotiate from there. He said at the last meeting Mr. Young said he wanted to work with the County, but before making a judgment wanted to make sure all things are taken into consideration. Mr. Economy said there are a lot of negotiations needed to mutually benefit both the City and the County in regards to green space, improving the water quality of the Lagoon, public use, and parking for Dodgertown. He said the monetary investment alone dictates a carefully

negotiated agreement to avoid an \$11.5 million loss. The value to our community beyond the Lagoon makes this a monumental decision. He asked that they stay the course and start negotiations with the County that are mutual, fair, and beneficial to all and to our Lagoon, such as short parking revenue, a water cleansing Park, and a green space that has multi-functional community access and use that involves all of Dodgertown. If the County wants to spend \$2.4 million for good order in the community and spirit of collaboration then they should lease this property and go to work on improving this site for the community and for our Lagoon. He asked that the City Council please, do not make another decision that costs the taxpayers millions of dollars.

Ms. Alma Lee Loy said that she did not plan to speak today, however she is excited to be a part of the anticipated conclusion of a project that is right for the right reasons. The Dodgertown proposal gives both governing bodies, the City and the County, the opportunity to show “we are different.” We do things with the wishes of our people as a top priority. She said they have additional credible plans for an A-plus baseball layout to be available to all of our citizens. She said that she received a copy of an article from the New York Times dated January 31, 2019, that indicates the Dodgers are inviting all of their friends for Summer Camp to Vero Beach, Florida. She is thrilled to know that her legacy in this community has been culminated as she observes her governing bodies doing the right thing for our future generations. She thanked the City Council for their attention and loyal support.

Mr. Joseph Paladin, President of Black Swan Consulting and Indian River County resident, said that he supports this project and thinks the County and the City working together makes both entities stronger. He felt it was a positive thing for the County, the City, and everyone who lives in the area of Indian River County. He thinks this is going to bring a lot of attention and promise to the area. He strongly supports this project and thinks the City Council should approve it and move forward.

Mr. Dan Stump, Finance Commission member, said that he heard some disturbing comments by the City Council as a whole. He said this transaction does not smell right to him. As a member of the Finance Commission and as such, his primary concern is to protect the tax base of the property owners of the City and he doesn't think this transaction does it. He said that he wasn't aware that the City Manager was not really involved in all the negotiations until tonight. He said that he is really concerned about one (1) of the Councilmembers stating tonight really sound good reasons why the City should not vote for this purchase of the land and yet says they are going to vote for it. He said they wouldn't think of doing any other transaction this way. They certainly didn't take this approach with the sale of Vero Electric. He said there wasn't one (1) issue involved in that sale that the City Manager wasn't involved in and that is the way it should have been. But tonight the majority of the City Council seems to be leaning to go ahead with the purchase of the property without following that procedure. As far as some of the concern of keeping Vero, Vero, he thinks that is the wrong approach. He thinks that is a poor analysis. The City Council's concern is not keeping Vero, Vero. He thinks the major function and purpose of the City Council is to protect the tax base and this transaction doesn't do it. He said they can say there are certain benefits in this

agreement, which there may be, but the one (1) benefit they don't see in this transaction is there is nothing about the tax base for the Vero Beach property owners. If this transaction goes through, that is gone. They are going to get \$2.45 million, but what about future years. There is nothing coming to the City if the property is sold. He said there is an Election coming up and questioned what is wrong with putting this on hold because there might be a change in attitude with the new City Council. He asked what is wrong with delaying it for 30 days with the new City Council and City Manager and letting them do a proper analysis and start over. That is what he would suggest.

Dr. Zudans said that he is sympathetic to what Mr. Stump is saying, but there are things like Dodgertown contributing to the tax base, but not necessarily in the direct sense. There is a lot of business brought to the community by that. The same could be said by the Cleveland Clinic, which is outside the City limits, but it is in our community and is going to bring a great deal to our community without directly contributing to taxes. He said people are going to move here and property values are going to go up. So, there is an argument on the other side that just because you are not on the tax base does not necessarily mean that you are not contributing to the economic impact of our community.

Mr. Ken Daige read a prepared statement (attached to the original minutes). He said that he understands the City Council wants the best for the community and they have all had nice things to say about baseball, this property, and its intent. He said they are good words and need to be put in writing. There is no reason why they can't wait a bit. He said yes, it is good for the County, but if it is not in writing it could be changed at a later date.

Mrs. Linda Hillman said that she also was not aware that the City Manager was not a part of this deal and because of that she agrees with Councilwoman Moss, Dr. Zudans, Mr. Economy, and Ms. Frey. She believes they should go back to the negotiation table. She said the County is getting a good deal and the City is not going to get a good deal when it is all over with.

Mr. Michael Zito, Assistant County Administrator, said that Mr. Brown, Mr. O'Connor, and himself negotiate for a living. When you negotiate in the public best interest not every negotiation is a competitive one. He said many negotiations are facilitative in nature and that is what this one is. He thanked Ms. Loy for her wisdom, guidance, and daily inspiration of government leadership. She mentioned the article that was in the New York Times on January 31, 2019. He said that was to celebrate what would have been the 100<sup>th</sup> Birthday of Jackie Robinson. He said it was not just an article. It was a 25 page special addition section of the New York Times. He said that Jackie Robinson's legend is alive and growing and will be here in the City of Vero Beach for the next 100 years. He read from the article, "*Send your boy to Dodgertown Camp, Vero Beach, Florida, for the summer of his life.*" He said that is what we are here to do. Not to compete in a financial war. They are here to facilitate the future in a collaborative effort for the City and the County and it is going to be great. They are not here to competitively negotiate. If they were, the County would not have lifted the dead restriction that put the

City in the position to market the property for sale. He said let's come together and vote yes.

Mr. Brian Heady said Councilwoman Moss did some homework and whether he agrees or disagrees with her, he has seen more than one (1) time that she does her homework. He said that he has referred to her as a Pitbull when she gets onto something and gets her teeth into it, that it is tough to get her to release. He said that he knows anything he says today isn't going to make any difference. The City Council is going to do this deal, which is unfortunate. What Councilwoman Moss did was go back and look at the history. He then went over some of the history of the property. He said the City is going to sell a piece of property that they owe almost \$5 million on for \$2.4 million. Only government can operate like this. He said the property located across from the main entrance of Dodgertown is for sale. He suggested that they purchase that property and leave the City Park land alone. He felt it was important for the City to know the value of the piece of property that is for sale before they decide to accept the \$2.5 million. He said it is the same recipe all the time and the taxpayers are the ones who have to pay. As far as why they don't wait until after the Election is because of the possibility of him getting elected or someone else getting elected and if he got elected this property would not be sold. He said that he knows why they need to rush this through. He said they only have two (2) Councilmembers sitting that are within their elected term. The other three (3) Councilmembers' terms ended in November and they are still sitting at the dais and voting to give away taxpayer property.

Councilwoman Moss thought that the County recently purchased property in that area. She doesn't know which piece of property, but she would ask Mr. Brown to tell them what they paid for the property and the acreage. She believed they bought it for parking. She thought she had seen a memorandum that Mr. Brown wrote which is the reason she is asking.

Mr. Jason Brown showed on the doc cam the property. He said there are two (2) parcels in the area of where Star Suites is being built. One (1) parcel comprises a portion of Flight Safety Drive and the other is located between Star Suites and the Dodgertown hotel rooms are located. He thought the County paid about \$105,000 and they are some portion of an acre.

Mayor Howle said they talked about redacting a portion of the agreement.

Mr. Dylan Reingold said it is the sixth whereas clause on page one (1) of the contract and they are in support of striking that from the contract.

**Mayor Howle amended his motion to include those changes that Mr. Reingold just spoke of. Vice Mayor Sykes seconded the amended motion.**

Councilwoman Moss said this is a legal question so she will ask Mr. Reingold. She said this has to do with the contract, the Amended and Restated Facility Lease Agreement. She read from page one (1), Item (c), "*Whereas, MLB has or prior to the effective date*

*will purchase the membership interest in Verotown.*” She asked did that happen. She asked did that occur.

Mr. Reingold answered yes.

Councilwoman Moss said because Verotown, LLC is everywhere in this agreement, but then we should understand Verotown, LLC to mean MLB if they have in fact purchased the membership interest in Verotown, LLC according to what it says in the document.

Mr. Reingold said that he recommended that the Verotown name be used throughout the document in that was the entity in which the County had the amended and restated agreement with.

Councilwoman Moss said this is also a legal question. She said that she has this information from Mr. Smith and this is with regard to Tourist Tax so we are changing the subject a bit. But, she had asked about the Capital Reserve Account, which will be used to fund Dodgertown for at least the next 10 years. Her question had to do with the composition of the Capital Reserve Account; what components were Tourist Tax, Sales Tax, and other. She said that she is going to read the first two (2) because they are brief and that was the first question and this has to do with the Capital Reserve Account, this would be the funding, this is providing the funding for this project. This is her question, she read, *“What are the components for example, Tourist Tax, Sales Tax, other.”* She said Mr. Smith’s response, and she is reading this exactly, *“Prior lease agreement was half-cent sales tax and optional one-cent sales tax. The new lease agreement,”* that is what we are talking about now, she continued, *“is Tourist Tax and optional one-cent sales tax.”* Her second question was, *“What percentage of the account does each component represent.”* Mr. Smith’s response, and she is reading it verbatim, is, *“Prior lease agreement 50% half-cent sales tax, 50% optional one-cent sales tax.”* She said the new lease agreement, what they are talking about now, *“81.25% Tourist Tax,”* she said yes, *“81.25% and only 18.75% optional one-cent sales tax.”* She said that is why the Tourist Tax is so critical and that’s why she has been raising this issue. She assumed Mr. Reingold had a copy.

Mr. Reingold answered yes.

Councilwoman Moss said that is Mr. Smith’s response. She asked Mr. Reingold if he disagrees with Mr. Smith’s response.

Mr. Dylan Reingold said that he doesn’t have a reason to disagree with Mr. Smith’s response.

Mr. Arthur Economy said that he has a question for public record because he is confused on a couple points. He asked do they absolutely without question have legal standing to proceed with a vote tonight that cannot be challenged based on the quorum and the voting issue.

Ms. Kira Honse, Interim City Attorney, said anything can be challenged, but they do have a quorum of the City Council.

Mr. Economy asked is it completely legal from her point of view.

Ms. Honse answered yes.

Dr. Zudans said that his vote is changing and would like to explain why. He said that he voted that unfortunately this was a botched negotiation, not because of the City Manager, but because of freelancing it left many chips on the table. He wanted to send a warning to future City Councils that it is not in the best interest of our City to negotiate on your own behalf, whether it is property negotiations, union negotiations, etc. He said this should all be handled through the City Manager. He implored any future City Council not to try to go back and try to repurchase this property if it comes back up. He said that he can see that happening if this doesn't work out in the future with MLB and the County is going to sell the property to someone the City doesn't like, they are going to go back in and throw more money into this pit. He said that he sees this as an opportunity to reduce animosity and he is honestly trying to reduce controversy in trying to get along and make the City Council look better and make their County relationship improve. Despite the fact that he doesn't think this is the best negotiation, he will be voting for it. He does think that in the long run MLB is a wonderful thing for our community and will do great things for our community, so overall it is in the best interest of our City. He wished it could have been handled better.

Councilwoman Moss said she will not be voting for this. She said this is not in the best interest of our City, as much as she would like to get along with the County.

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

Council took a five-minute recess and the meeting reconvened at 6:50 p.m.

**2) Mr. Richard Lewis to speak on Wreaths Across America – Sponsored by Councilmember Tony Young**

Mr. Richard Lewis commented that he came in front of the Council about a year ago to talk about Wreaths Across America. This year they had a very successful year. There were not enough wreaths purchased to cover all of Crestlawn Cemetery this year, but they are requesting permission to do the event again this year on December 14<sup>th</sup>.

Mr. and Mrs. Joe Crowley spoke on the Wreaths Across America and said that this year they were going to include Sebastian. They want to get the whole County involved. He said that this year Mr. Young was the speaker at their ceremony and it was a great ceremony. They will be meeting with the Veterans Memorial Island Sanctuary Committee tomorrow morning and getting everything finalized with them. They raised \$10,000 for the wreaths for 2018 and this year hopes to raise \$30,000.

Dr. Zudans mentioned that he attended Wreaths Across America. He took his two sons with him who were not thrilled about going, but once they got there and started putting the wreaths down, they enjoyed the experience. He asked Mr. Crowley what could they do to help.

Mr. Crowley said that this year they hope to purchase 3,000 wreaths with their goal being to raise \$30,000. He said they were only about 400 wreaths short this year in Crestlawn Cemetery.

Councilwoman Moss commented that the Council was definitely behind them.

Mr. Lewis added that each wreath costs \$15.00. He explained how someone could go on the website and purchase a wreath.

Dr. Zudans was surprised to learn that this event takes place on the same day and time as the ceremony in the Arlington Cemetery.

Mr. Sykes asked if live wreaths were being laid. Mr. Lewis said yes. He said that they had to pick all the wreaths up by January 5<sup>th</sup>. He said in other states the wreaths last longer because of cooler weather.

Mrs. Sharon Crowley said that she would also like to see wreath stands provided like what they had on Memorial Island. She said that the stands cost 89 cents apiece and her goal for next year is to provide them at Crestlawn Cemetery.

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

Mr. Brian Heady showed a painting of the bridge and noted that to take this picture the photographer had to go on County property that had signs saying no trespassing. He then gave a Power Point presentation and said that his viewpoint is that the Parks need to be saved. He said if you google Hibiscus City what comes up is Vero Beach, Florida. If you google the Best Parks in Indian River County, then what comes up is all Parks outside the City limits. The Dog Park is protected and fairly well used. Veterans Memorial Island Sanctuary is remarkable and the work done out there is incredible and used often. He said if anyone wants to see a good sunset they should go to Memorial Island. There has been some work done at Leisure Square to improve it and the complex is used. He showed at Young's Park where shingles have come off of the roof and the area is not being maintained. It is in disrepair. In Royal Palm Pointe, the Park is underutilized because the fountain is not operating. He showed pictures of Humiston Park and the deterioration parts. The lifeguard station at Humiston Park shows where shingles are gone off the roof and it leaks. The Marina is a waterpark that brings people into their community. He showed deterioration on the dock and suggested using the same company to fix this dock that they used for Royal Palm Pointe. He showed the Downey Pavilion, which is beautiful. Little flower is in disrepair and hasn't been cleaned

up since the hurricane. He stressed that they needed to maintain their Parks. They should maybe look at hiring someone just to get the Parks back in shape. He showed pictures of the Farmers Market on Ocean Drive, which a lot of people were attending and parking was available. He showed the Garden Club event from last weekend that drew a ton of people at Riverside Park. He showed that their beaches and Parks do have ample parking. The Parks are beautiful, but they need to do the maintenance to keep them that way. He suggested taking some of the money from the sale of the utility and devote it to keeping their Parks in repair.

Mayor Howle asked if there was someone that could designate or identify what the problems are.

Mr. O'Connor said that person would be Mr. Rob Slezak, Recreation Director. He will work with the Public Work's Department on this.

Dr. Zudans wanted the Parks prioritized as to the most important things that need to be completed first.

Mr. Rob Slezak, Recreation Director, stated that he would try to prioritize the facilities from top to bottom and then bring it back to the Council. He has been working on taking care of the biggest facilities to get them utilized and up to snuff.

Mr. O'Connor added that by paying off the debt service for the Dodgertown note it frees up the one sales tax so we would be able to spend more money on the Parks.

Mr. Slezak expressed that they are looking at naming rights and are hoping that the money raised from that will help pay for some of the needed things at their Parks.

Mr. Sykes asked Mr. Slezak if he knew what the cost would be to bring these Parks up to where they need to be.

Mr. Slezak said it would be pretty significant, but he will let Council know. He has been working on South Beach Park and doing some upgrading.

Mayor Howle referred to the picture that showed Humiston Park and the paint flaking. He said that the longer it takes to repair these projects the bigger and more expensive they become to fix them.

Mr. Slezak went over the history of when the County contributed \$650,000 for recreation facilities. They stopped contributing this money in 2002 and the two (2) Recreation Departments split and became the City Recreation and the County Recreation Department.

Mr. Sykes asked Mr. Slezak to rank the things that he feels should be addressed first.

Dr. Zudans commented that they will be trying to work on a fiscally responsible budget this year so he needs Mr. Slezak to tell them where the money will be best spent. He is worried about there being too much money sitting there from the sale of the utilities and some future City Council starts spending it. They must be fiscally responsible. He doesn't think the answer to every problem is to spend more money. This money needs to be placed in a reserve fund or dedicated for long term projects. This Council needs to go through the budget and earmark this money. He realizes that the general consensus is to make their Parks better. He agreed with taking some time to prioritize these things.

Mr. Slezak agreed that the priority should be year by year. Then once they have attacked this, then they can set up a maintenance program so this doesn't happen again. He said that they have some groups that come and help them with these Parks.

Mr. O'Connor expressed that it is not just the Parks where things need to be repaired. He gave an example of the roof at the Public Works Department that needs to be repaired. The cost to make these repairs all come from the same General Fund.

Dr. Zudans expressed that everything needs to go through the City Manager. He personally thinks that the Police should be number one (1) on the list because of public safety, so Council has to be careful not to inject their own desires into some of these things.

Mr. Slezak reported that there are three (3) people that he knows of who are interested in naming rights and he thinks they can help.

Mr. Heady added that the reality in those pictures shows clearly that there have been years of neglect. What he is asking for Council to do is prioritize the maintenance and repair of their Parks. He said that \$5 million is a realistic figure to use to repair the Parks. He said that Council can't blame staff on what happened at these Parks.

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

This item was heard at 7:57 p.m.

Mrs. Phyllis Frey asked are you smarter than a smart meter. She said this device is about to be installed by FPL. She then read a prepared statement. She thanked Mr. O'Connor for his services.

Dr. Zudans asked if FPL had tier rates for their customers. Mr. O'Connor was sure there were tier rates for their residential customers.

Mr. Brian Heady said there is an Election coming up and he thanked Mr. Young for allowing him to come up and speak tonight. His hope would be that the next City Council reverts back to the way some of the former City Council members handled meetings and allow the public to speak without time limits. They were much friendlier then this City Council and their meetings were shorter.

Mr. Ken Daige said that his experience with the Parks Department and other Department Heads is to be commendable. They have worked hard to keep this City together. He said it has been nice working with the City Manager. He (Mr. O'Connor) always took his phone calls and returned them. When he asked a question and he didn't know the answer he always got back to him.

### **3. CONSENT AGENDA**

#### **A) Royal Palm Pointe Dock – Hurricane Irma Repair (Job #2017-35) – Bid 070-18/JO – Contract C-19-2018 – Recommendation of Final Pay and Acceptance – (Cost \$31,725)**

This item was heard earlier in the meeting.

### **4. CITY COUNCIL MATTERS**

#### **A. New Business**

##### **1) City Manager Request for Proposals (RFP) Rankings – Requested by the City Council**

Mr. O'Connor presented the Council with the Request Proposal Rankings for the City Manager search. He said their recommendation would be to go with Colin Baenziger & Associates because of their experience. He said that there were three (3) firms and all the firms are good. Their prices are very similar. He said that HR Dynamics is a local firm and the one that did the search for the City Manager when he was hired.

Dr. Zudans asked if there were any problems with the search that HR Dynamics did in the past.

Mr. O'Connor noted that there were some complications when HR Dynamics did a search for the City Attorney. He said HR Dynamics did not charge them for the search, but there were some issues.

Mayor Howle asked if there has been any applicants from this area apply for the City Manager's job.

Mr. O'Connor explained that there have been some applications submitted from this area, but they do not have any City Manager or County Administrator experience. The City has received 12 applications from other places.

Councilwoman Moss said that she would not want to consider anyone that has does not have City Manager experience.

Dr. Zudans commented that he spoke to Mr. O'Connor about some potential local people that he thinks would be very good if they are interested in the job. He said even if they were going to go with someone locally it is not a bad idea to have a search firm to do the negotiations. He was inclined to go with the recommendation made by Mr. O'Connor.

Mr. O'Connor agreed with having a search firm handle this. He said it usually ensures the applicant that word does not get out that they have applied for the position until that person is ready for it to be public.

**Mr. Sykes made a motion to use Colin Baenziger & Associates for their search firm. Dr. Zudans seconded the motion.**

Mr. Heady suggested that they were putting the cart ahead of the horse. He said for many years he listened to how difficult it was for the City Manager to also be the Utilities Director. The first thing that they will need to discuss is the salary for the new City Manager. He suggested that it be cut in half from what the City Manager is being paid now because he is no longer the Utilities Director.

Mr. O'Connor commented that these are things that will need to be discussed with the search firm. The search firm can give them the market rates on what they are looking for.

Dr. Zudans felt it was a bad idea to have the City Council preset the salary. The City Council is not qualified in determining that.

Mr. Heady commented that with the current City Manager, he came to them out of the search firm and as far as negotiating, Councilwoman Moss helped with the negotiations of the utilities so she is familiar with negotiating. He said that all the City Council did not lack that ability.

Mr. Sykes recalled that because Mr. O'Connor was working for another City at the time it would have been hard to not have a firm help with the negotiations.

Mr. David Johnson, HR Dynamics, stated that he has been in the business for 11 years. His right hand person is Mrs. Donna Lemon who is President of the firm. They are a local recruiting management consulting firm. He wanted to address the issue that was brought up about HR Dynamics and the involvement with the former City Attorney search. He said what happened is just after they had recruited Mr. O'Connor, the City Council asked him to go looking for a City Attorney. He said there were a lot of resumes at City Hall so their role was not really to conduct a search, but to go through these resumes, which they narrowed down to three (3). They interviewed these three (3) candidates and introduced them to the City Council. Then they decided on one (1) candidate from Ohio and they particularly liked him because he had been involved in the sale of the water utility in West Palm Beach. They did reference checks and found out there was an issue in his background, which they reported individually to each Councilmember. It was kept out of the press and then decided he was the person that Council wanted to hire and he was the one to negotiate the offer. He did a complete

background check and found out that applicant had lied to them. He said the incident that caused the initial problem was repeated and this was not reported to HR Dynamics. At this point he had no choice but to make it public and told Council his recommendation was not to hire this person. Then the City Council agreed to move Mr. Wayne Coment from the interim position to the full position. He said they could have done better, but they certainly saved the City any money and embarrassment. He said it is part of the recruiting process. He said background checks are critical. He wanted to go over what he thinks this search is going to be like and what they are looking for in a new City Manager. Then he wanted to go over a proposal to do it a slightly different way. He went back to 2019 when the new City Council was elected and four (4) of the members had never served before or worked with a City Manager. He said times were tough back then. There was the City budget and Council did not have confidence in the Finance Department to produce a good City budget and financial footing was shaky. The Council felt that City staff was not professional and changes were needed. This Council came into office with the mandate to sell the electric utilities. This is the environment that Mr. O'Connor was hired into. He went over some of the things that Mr. O'Connor did in the first six to nine months that he was here. There was a new Police Chief hired, a new Finance Director hired, Union Negotiations were done and then he had to cut City staff by 10%. He also got very involved with the community. He said let's talk about now. This City Council knows what it is like to work with a good City Manager. This Council knows how important it is for someone to get involved with the community. This City Council will be interviewing City Manager candidates and need to let them know how important it is to be involved in the community and open to the press. The other thing that is different now is that this is a whole different environment. The issue now is growth. They need to find a City Manager who has had experience with growth. He said this City is growing. Hearing all this, people can see that this City Manager's job is a good job for someone looking because the City is in good shape. His point is that they know what they are looking for and the Council is in an excellent position to evaluate the candidates. He does believe that there are some good local candidates and what he thinks would be interesting is to do a two (2) step search. He said for the next month before the new Council is seated, that the local candidates would be interviewed and evaluated by the search firm and the resumes that are in-house also evaluated so that by March they will be able to determine if there is a good slate of candidates. Then if not then they go to a full blown search. He reiterated that he does think that there are some good local candidates and HR Dynamics would like to be involved in that first phase and will approach candidates on a confidential basis. They would also handle the rejections so that the City Council will not have to answer to the candidates as to why they were not chosen. Negotiating the contract and salary with the candidate must be in the hands of the search firm. He said even though they don't have electric utilities anymore, it does not mean it is going to be easy to find a top notch City Manager without "paying up." He expressed that the involvement of the City Council is so important when hiring the new City Manager.

Mayor Howle asked who recommended Mr. Schef Wright to be their outside counsel.

Mr. O'Connor explained that Mr. Wright had worked for the City for several years and was on a continuing contract. He was not hired by a search firm.

Dr. Zudans commented that he really does not know what happened with the previous search of the City Attorney and knows that they don't want to get into the details of what it was. Does he understand that initially there was a background search done that did not find things and then later after an offer was made it was retracted. He asked how did the search firm handle the search for this City Attorney.

Mr. O'Connor recalled that the search firm brought them candidates and then they did a preliminary type background check on the candidates. There were three (3) candidates that were interviewed by the City Council and the City Council ranked them. There were some things found in the background search done by the public on the person that they ranked as their first choice. The person was selected, but no offer was made.

Mayor Howle commented that if he had a good applicant locally he would see no reason to hire a search firm. However, seeing that they don't, he tends to go with local talent to try to help the City with things they are trying to solve. He does take value in what Mr. O'Connor suggests.

Mr. Young stated that if they have a professional firm, they can set the parameters by which the firm reaches out so they are not excluding local talent. His preference is to make sure they have a professional agency doing the preliminary work and then if something comes out, the professional agency will bring that to Council's attention.

Mr. O'Connor explained that what Council is going to do is select a firm and they will have a negotiated contract with the firm and the discussion of what parameters they are looking for in a City Manager will be discussed. Then the search firm will sit down individually with each Councilmember and go through what is it that you are looking for.

Councilwoman Moss asked Mr. Johnson if he was referring to a separate category of local people who might require confidentiality in order to be considered for the position.

Mr. Johnson explained that the confidentiality issue is for anyone that is currently employed. What he was referring to as Phase 1 is not looking at the passive candidates (those currently employed), but instead starting evaluate the local candidates, even those locally employed. He said the search firm would to meet with the candidates to see if they had any ideas. They would only look at the resumes submitted and then stop. Then wait for the new Council to be seated and decide at that point if a full blown search is needed.

Mr. Young commented that they have a spokesperson tonight at their meeting from HR Dynamics and they don't have one from Colin Baenziger on how he would approach this issue.

Mr. O'Connor said that he could arrange having all three (3) firms come in and make a presentation to the Council.

Mr. Sykes said at some point they want to hire a new City Manager and wondered if they were splitting hairs.

Mr. Sykes said he was happy to retract his motion if Council feels that it should be done.

Dr. Zudans said he would retract the second to the motion, but felt that they should make a decision. He didn't think there was a huge difference between the organizations. His only reservation was that there was an issue with background checks previously. He is less concerned about that after he heard the explanation. He felt that they should either pick the recommendation that their City Manager gave them or their local option. The costs are going to be about the same and he thinks that both firms will do their job professionally. He asked Mr. O'Connor if he had any reservations with these firms.

Mr. O'Connor said he had some reservations with the phases as mentioned by Mr. Johnson. He said there needs to be a full blown recruiting take place. There are some local talent, but he thinks there may be some other people who may be on the market that could bring some dynamics to Vero Beach and Indian River County.

Dr. Zudans stated that if his City Manager, who he likes, is making a recommendation, then he is going to go with his recommendation.

Mr. Heady said that if he was on the City Council he would hire HR Dynamics. When Mr. Johnson brought Mr. O'Connor in, he (Mr. Heady) was on the Council at that time and voted against him. He said that this Council should be looking at local people first.

Mr. Johnson explained that his two (2) step approach comment was thinking about the Election on February 26<sup>th</sup> and making decisions. The proposal he submitted is a full blown search. He just wanted to put another idea in their heads. He felt that the local candidates might be much stronger than they think. The difference between his firm and the large firm is that they specialize in recruiting a City Manager and his firm specializes in getting people to Vero Beach.

Mr. Ken Daige asked what is their time frame in having a new City Manager.

Mayor Howle felt that the earliest would probably be by June.

Mr. Daige recalled how intense it was when Mr. O'Connor was hired. He thinks that Mr. O'Connor gave them some good ideas to consider tonight.

Mr. Sykes commented that he always likes to hire locally. He said this is nothing personal against HR Dynamics, but he will defer to the opinion of his City Manager in this case.

**The motion to hire Colin Baenziger and Associates as the search firm for the City Manager passed 5-0 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

Mr. O'Connor stated that he would be contacting Colin Baenziger and working on a contract to bring back to the City Council.

**2) Discussion of the City Attorney's position – Requested by Councilmember Tony Young**

Mr. Young commented that now that they were in the position that there is only one (1) attorney in their attorney's office he thought it would be appropriate as they were looking for a City Manager to have the search firm also look for a City Attorney, which would allow any individuals interested in the position to apply.

Dr. Zudans asked if there had been a resignation in the City Attorney's office.

Mr. Young said yes.

Mr. Sykes thought that they were going to allow Ms. Honse to be the Interim City Attorney for six (6) months.

Mr. Young said that was his understanding also. But, now because of the circumstances they need to go ahead and move forward with a search to find another employee for the City Attorney's office. He did not want to restrict that to the lead attorney or the assistant attorney.

Ms. Honse explained that the other Assistant City Attorney in the office has resigned as of February 22<sup>nd</sup>. So she (Ms. Honse) will be the only attorney in the office. She said the question amounts to this. She can continue to act as the City Attorney. If Council appoints someone else as the City Attorney they would not necessarily have to hire another Assistant City Attorney until they get a feel for what the work load is and the budget process. If Council appoints her as the final City Attorney then she would need to hire an Assistant City Attorney. She said that her application has been provided and she would not be opposed to being offered the job, but if Council decides they want to offer it to someone else she is okay with that also. What it amounts to is are they going to keep it to two (2) attorneys in the office and if so, then Council hires someone above her or she hires someone below her. She said that is Council's choices.

Mr. Sykes asked Ms. Honse if she wanted the job.

Ms. Honse said that yes, she wants the job.

Mr. Sykes said after having now completed the sale of the utility system he would need to hear some real justification on why they would need an additional attorney.

Mr. Young explained what they are saying is that two (2) attorneys are needed in the City Attorney's office.

Dr. Zudans stated that he was very much in favor of trying out the idea of two (2) attorneys in the City Attorney's office. He is personally very comfortable with the continuity of Ms. Honse in the position. She is capable of doing the job and she has extensive experience and knows this City. He is fine with the idea that she becomes their City Attorney. He thinks that they should be looking at hiring an Assistant City Attorney. He said that is his opinion. He understands that there may be different opinions, but he feels that is the route that they should go down.

Ms. Honse suggested as part of her contract, let it be a six-month probation period.

Mr. Sykes liked the idea of the continuity as well since the City Manager is leaving.

Dr. Zudans said that they still would need to be looking for an Assistant City Attorney because there is too much work for just one attorney.

Mayor Howle stated that if they are looking for an attorney, will they receive resumes from people that would fit either position (Assistant City Attorney or City Attorney).

Mr. O'Connor explained if they use a firm to hire the City Attorney and this takes them three (3) months and they are satisfied with the job that Ms. Honse is doing then whoever they select, they could say instead of needing a City Attorney, they now need an Assistant City Attorney.

Dr. Zudans stated that this goes back to that the City Council is only responsible for three (3) employees and they are the three (3) Charter Officers. He said if there is an employee being hired in one (1) of those Departments it is not their business. Their business is to make sure that they have the proper head of that department. If it is an Assistant City Attorney working in the City Attorney's office that is the job of the interim or current City Attorney to decide. He felt that Council should decide whether or not they want to have Ms. Honse in that probationary period as their City Attorney. If they decide to do that then they should let her look for an Assistant City Attorney. If it turns out she is not up to their liking then those three (3) positions serve at the will of the City Council and at that point they would look for a new City Attorney.

Councilwoman Moss stated that the City Attorney is a Charter Officer. She said they are not just hiring an attorney, this is a Charter Officer.

Mr. Sykes deferred to Mr. O'Connor for his opinion.

Mr. O'Connor stated that he has talked to Ms. Honse about this. His opinion is that they should go out for a City Attorney then they are gaging her against other applicants for the City Attorney. He said if they do that and they find someone that is better than Ms. Honse, then as she has told the Council she will stay on as the Assistant City Attorney.

However, if the applicants fall below then Ms. Honse would be able to pick someone out for the Assistant City Attorney.

Mr. Sykes suggested instructing Colin Baenziger & Associates to also look for a City Attorney.

Ms. Honse told Council to be aware that the work coming out of the City Attorney's office after February 22<sup>nd</sup> will not get done with just one (1) attorney. She requested an expedited path for the City Attorney position.

Dr. Zudans commented that in the event that they have a situation where they cannot meet their legal requirements they may have to temporarily outsource some of their work.

Ms. Honse suggested hiring someone on a temporary basis.

Dr. Zudans requested that she look into that in the meantime so that they can have sufficient coverage.

Mr. O'Connor said that he would work with Ms. Honse regarding the temporary coverage and at the same time he will get a new proposal from Colin Baenziger & Associates for hiring a City Attorney as well.

Dr. Zudans suggested making it clear to Mr. Baenziger that it may be for a City Attorney or Assistant City Attorney position so that they receive a full range of applications.

Mr. O'Connor will make it clear to Mr. Baenziger that if it is an Assistant City Attorney that Ms. Honse would make the selection.

Mayor Howle requested taking a five-minute recess and returning at 9:05 p.m. Council reconvened the meeting at 9:05 p.m.

**3) Fees for renting Pavilions at their Parks and Naming of Recreation Facilities  
– Requested by Councilmember Tony Young**

Mr. Young reported that the City Council passed a Resolution for reservation of pavilions in their City Parks. The fee is \$50.00 for City residents and \$75.00 for non-City residents for day rental of a large pavilion and \$25.00 or \$50.00 for a small covered pavilion. The impact of this fee appears to have drawn a lot of public outcry. He recommends that the fee for the pavilions be modified and assessed only for those seeking to reserve the pavilion for personal/family functions. The pavilions would otherwise be available at no cost on a first come, first serve basis. Signage would indicate when the pavilion is reserved.

Council concurred that they thought that was how it was set up and agreed with Mr. Young that is the way it should be handled from now moving forward.

Mr. Young continued by saying the second part of his memo is to recommend as an additional source of funds for the recreational department providing naming rights for the recreational facilities on a set period. These rights would not apply to those facilities or locations that already have historical significance such as Pocahontas Park.

Mr. Slezak will be bringing this information to the Council very shortly. He said that after tonight's meeting he now has four (4) people interested in the naming rights. He then thanked Mr. O'Connor for being a great leader and that they were going to miss him.

- 4) City-Owned Dodgertown Property – Requested by Councilwoman Laura Moss**
- A) Dodgertown Golf Course Property Loans (\$9,621,057 paid through 10/1/2018, \$4,702,966 balance remaining)**
  - B) Property Appraisal dated 09/25/2018 (\$3,200,000)**
  - C) IRC Memorandum by County Administrator Jason Brown dated 12/10/2018**
  - D) IRC Memorandum by County Administrator Jason Brown dated 01/07/2019**
  - E) New IRC Tourist Tax Ordinance**
  - F) Original Tourist Tax Referendum with Letter from Councilwoman Laura Moss dated 05/15/2018**
  - G) Tourist Tax Revenues (Fund 119 – Tourist Development, Fund 128 – Beach Restoration, Fund 204-Spring Training Facility) Revised 01/28/2019**
  - H) F.S. 166.031 as would pertain to a Referendum to add this property to Section 5.05 of Vero Beach Code (City Attorney Kira Honse)**
  - I) Section 5.05 of Vero Beach Code**
  - J) Correspondence from Attorney Nick Thomas**
  - K) Invitation by Councilwoman Laura Moss to the City Council of 2005 regarding Dodgertown Property**
  - L) Responses by Hon. Mary Beth McDonald, Hon. Debra Fromang, Hon. Tom White and County Commissioner Bob Solari with Moss's second request to Solari**

Councilwoman Moss commented that most of these items have already been discussed or were on the agenda for information purposes only. She referred to item *H) F.S. 166.031 as would pertain to a Referendum to add this property to Section 5.05 of Vero Beach Code (City Attorney Kira Honse)*. This is a Florida Statute having to do with a referendum and her thought on this was that she was planning to have Ms. Honse talk about it and it had to do with the idea that the people of this City have spent so much money on Dodgertown over so many years (\$14 million). It was the City Council of 2005 who made the purchase. So it has been 14 years and \$14 million has been spent, which is a huge amount of money over a long period of time. She thought that they deserved the right to vote on this. That you decide, the individuals and have a referendum. She said that is why she had it on the agenda. But, the decision has been made so they can move forward.

- 5. Special Election on Tuesday, February 26, 2019 – Requested by Councilwoman Laura Moss**
- A) PowerPoint provided by IRC Supervisor of Elections Leslie Swan**
  - B) Contracting Supervisor of Election Services (City Attorney Kira Honse)**

Councilwoman Moss stated that the information with regard to the Special Election, on the day of Tuesday, February 26 from 7:00 a.m. to 7:00 p.m. there is no early voting so people should not go to the library to vote. The voters must go to one of the five precincts depending upon where they live or they can cast their vote by an absentee ballot. She reiterated that the public can vote by mail or report to their precinct on February 26, 2019 from 7:00 a.m. to 7:00 p.m. This information is available on the Indian River County Supervisor's of Election website, which is [voteindianriver.com](http://voteindianriver.com) and it is also available on the City's website at [covb.org](http://covb.org).

The next item for discussion was the contracting of the Supervisor of Election Services.

Ms. Honse noted that the one (1) issue that she sees in doing this is that the City Charter says that the City Clerk is the Supervisor of Elections. She said the best way to handle this would be to amend the Charter to allow the City Clerk to contract out the services. This would be a referendum vote in November.

Dr. Zudans asked if they could find out what is involved if this is done.

Mrs. Bursick explained that she spoke with the Supervisor of Elections who told her that the City has two (2) options in doing this. The first option would be if their candidates were elected every four (4) years, then qualifying could coincide with candidates who qualify with the Supervisor of Elections office. The cost would be \$0.25 per registered voter residing in the City of Vero Beach for the Indian River Supervisor of Elections to take over the filing and qualifying responsibilities. Mrs. Bursick noted that this item was on the last year's ballot as a Referendum item and the voters were not in favor of four (4) year terms. The second option was that the qualifying period during even years (which coincides with a general election) must take place any time after noon of the 1<sup>st</sup> day for qualifying, which shall be the 71<sup>st</sup> day prior to the primary election, but not later than noon on the 67<sup>th</sup> day prior to the date of the primary election. The Election for City Councilmembers would continue to be placed on the November ballot. The qualifying period during odd years (which does not coincide with a General Election) must take place any time after noon of the 1<sup>st</sup> day for qualifying, which shall be the 71<sup>st</sup> day prior to the General Election, but not later than noon on the 67<sup>th</sup> day prior to the date of the primary Election. The Election for City Councilmembers would continue to take place on the November ballot. In even years (General Election) the City of Vero Beach candidates would be responsible for following the campaign account reporting schedule set for candidates who qualify with the Supervisor of Elections office. In odd years, (no General Election) the City of Vero Beach candidates would be responsible for following the campaign account reporting schedules as set by the City of Vero Beach Charter. The

campaign reporting dates as proposed would have to be reviewed by the City of Vero Beach attorney or an elections attorney to make sure the proposed changes are in compliance with the Election laws. The City Attorney would have to recommend any required changes to the City Charter. The City Attorney would handle all legal matters regarding City Council candidates and the Supervisor of Elections would bear no liability. A formal contract for the Indian River County Supervisor of Elections to take over the City of Vero Beach's candidate filing and qualifying responsibilities would need to be negotiated with the City of Vero Beach and the Indian River County Supervisor of Elections. The cost would be \$025 per registered voter which would amount to approximately an additional \$2,000 when there is not a General Election (\$27,000) and when there is a General Election the additional cost would amount to approximately \$2,000 more (\$7,000).

Dr. Zudans stated that he was not planning on running for City Council again, but said ideally the City Council should all be elected at the same time every two (2) years. Then they would not have odd year Elections anymore. He said in order to transition they probably would have to do an Election because it is not publically feasible to have an Election every three (3) years. The next odd year Election in 2021 there would have to be a one (1) year term and then after that everyone's term would be for two (2) years. That would save the City the cost of all of the odd year Elections and maybe the way to go if they had to change the Charter in order to do it.

Mr. Young said that the last Election was poorly managed on a lot of levels, but he has the faith and confidence that the City of Vero Beach can conduct an Election. They have been doing it for 100 years. To pay another Agency to assume responsibility, which they can easily handle and have demonstrated it. He said all they need to do is make the changes that were recommended in the Ordinance. He said to ask the Supervisor of Elections to assume additional responsibilities in the Election functions sends the wrong signal.

Dr. Zudans stated that their current Supervisor of Elections is capable of doing this. He said that there is a value that you cannot place on the integrity of Elections. It is embarrassing that Florida keeps having these issues of how Elections are run. He said it is important that people have confidence and integrity regarding Elections and he personally is fine with this. He said if they are going to change the Charter, it is going to go to the voters and they will decide.

Councilwoman Moss stated there is no integrity right now. She said right now there is zero confidence, people are very upset. She said just the fact that it happened one (1) time is one (1) time too many.

Mr. Young said so what they are saying is that they lack confidence in their own staff and one (1) strike and you are out. He disagreed totally.

Councilwoman Moss stated that you are talking about 14,000 votes that were voided. She said it wasn't the staff, it was the City Council. It was by vote of the City Council and Mr. Young was the swing vote. You are the cause of this lack of confidence.

Mr. Young said to Councilwoman Moss if she was saying that he was the cause for the lack of confidence.

Councilwoman Moss said that no one is blaming staff.

Mr. Young said so it is on him that there is a lack of confidence in Vero Beach for the Election process.

Dr. Zudans did not think that was the appropriate way to phrase it. He said lets move on and not get into personal stuff.

Councilwoman Moss said it was a fact. There was nothing personal about it.

Mr. Sykes said it is not factual, because he was the swing vote.

Dr. Zudans said lets just talk about what is the best way moving forward to make sure that people have confidence in the system. He said that is really all their job is. If the best way is to have the Supervisor of Elections handle this and it is about the same cost that they are spending on doing it themselves, he did not think that was a bad idea. He said it will be the decision of the voters.

Mr. Sykes said that is one (1) of the only times it is appropriate to have a referendum vote because it is about voting. He said generally he is opposed to referendums, but in this particular case they are asking the public where is their trust and that is what they are going to get an answer to.

Councilwoman Moss agreed with Dr. Zudans that eventually the City will need to go to four (4) year terms. Dr. Zudans said he did not say four (4) years terms. He said two (2) year terms, but everyone gets elected all at once. This will save them money. Councilwoman Moss agreed that in the off years very few people vote. She said that is a matter of record. You just don't get good voter turnout. She said that the data from Florida League of Cities shows that the majority of the cities in the State of Florida either have three (3) or four (4) year terms for their City Council.

Ms. Honse stated that she will draft an Ordinance that would call for a referendum with two (2) questions. The first question would be to allow the City Clerk to contract out for the Supervisor of Elections services and the other question would be for all City Councilmembers having their term elected in the even years. These will be two (2) separate items for the public to vote on.

**B. Old Business**

## 5. PUBLIC HEARINGS

### A. ORDINANCES

- 1) **An Ordinance of the City of Vero Beach, Florida, amending the Comprehensive Plan Future Land Use Map by Changing the Future Land Use Designation 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.

Mr. Jason Jefferies, Planning and Development Director, reported that in 2016, the City Council approved a voluntary annexation application petitioning the City Council to annex a parcel of vacant land at 3780 Indian River Boulevard. The site is located on the east side of Indian River Boulevard between 37<sup>th</sup> and 41<sup>st</sup> Streets. The parcel is contiguous to the current City of Vero Beach City limit boundary line to the north. Adjacent parcels to the north and east are conservation lands that are owned by the Indian River Land Trust. Across Indian River Boulevard to the west are properties developed as medical and assisted living facilities. The proposed land use is RM, Residential Medium (up to 10 units/acre) on the City's Future Land Use Map and RM-8, Residential Multi-Family Medium Density (up to 8 units/acres) on the City's Zoning Map. Pursuant to Section 65.22(i)(1), the staff finds that the requested amendment is justified in order to comply with Florida Statutes which requires the City to adopt a comprehensive plan amendment that designates a future land use designation and corresponding zoning for the annexed area. The Planning and Zoning Board voted unanimously to send this matter to the City Council. He would recommend approval.

Councilwoman Moss wondered if this embarked on environmentally sensitive land. Mr. Jeffries said no, it would need to be more to the east and closer to the river.

Dr. Zudans asked if the area to the east was ever going to be developed. Mr. Jeffries said no because it is owned by the Land Trust.

Councilwoman Moss asked if there was a requirement that because the County is using this designation that we have to designate it the same way that they do. Mr. Jefferies explained that per the annexation policy, when an applicant comes to the City to apply for a land use similar to what the County's land use is, that is what is applied.

Dr. Zudans wanted to know why these people wanted to annex into the City. Mr. Jeffries said that would be a question for the applicant. However, what he has heard is it because their Land Development Code is more friendly to infill reuse development.

Councilwoman Moss said that she could not see how this would not create some kind of run off problem because it is so close to the Lagoon.

Mr. Jeffries stated that they have been assured that the run off is treated and contained on the property.

Dr. Zudans added that this differs from older developments where that was not required.

Councilwoman Moss said that infill was always a concern of hers when the Comprehensive Plan was discussed.

Mayor Howle opened the public hearing at 7:46 p.m.

Mr. Bruce Barkett, Attorney for the applicant, said that he was at tonight's meeting to answer any questions. He appreciated staff's report.

Mayor Howle closed the public hearing at 7:47 p.m., with no one else wishing to be heard.

**Mayor Howle made a motion to approve the Ordinance. Mr. Young seconded the motion and it passed 4-1 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss no, Vice Mayor Sykes yes, and Mayor Howle yes.**

- 2) **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**

Mayor Howle read the Ordinance by title only and said that this is a quasi-judicial hearing. There was no disclosure by Councilmembers of any ex parte communications. The Clerk swore in the applicant, staff and other witnesses. Mayor Howle made the announcement 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. Jeffries briefly went through a Power Point presentation concerning this annexation. He said that the Planning and Zoning Board passed the Ordinance 5-0 to move it to the City Council and be heard as a quasi-judicial hearing. There was no presentation from the applicant or any public testimony given.

**Mr. Sykes made a motion that based on the competent substantial evidence presented and the applicable Code provisions they adopt the Ordinance as proposed. 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.**

- 3) 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 Chief of Police**

The Mayor read the Ordinance by title only.

Mr. O'Connor reported that there has been a change in the Florida Legislation that was enacted in an effort to afford a dog or cat owner with an opportunity to quickly claim their lost pets. He said that the City's Police Department has already been doing that.

Chief David Currey added that their animal control services does their best to notify the owners of lost cats and dogs before taking them to the Humane Society. They know how costly it can be for an owner to have to pay to get their pet back once it is at the Humane Center.

Mayor Howle opened and closed the public hearing at 7:55 p.m., with no one wishing to be heard.

Dr. Zudans commented that letting cats go outside is a bad idea. They comingle with raccoons and could get rabies. He said all cats should be indoor cats.

**Mayor Howle made a motion to approve the Ordinance. Mr. Sykes 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.**

## **B. RESOLUTIONS**

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, establishing a Special Assessment Lien in the amount of \$4,705.00, for a Septic Tank Effluent Pump (STEP) System to serve the Real Property located at 555 Holly Road, Vero Beach, Indian River County, Florida; Providing for an Effective Date. – Requested by the Water and Sewer Director**

The City Clerk read the Resolution by title only.

Mr. O'Connor reported that this Resolution established a special assessment lien for the STEP system for the property owner living at 555 Holly Road. He would recommend approval.

Dr. Zudans asked if there was a limit to the number of people who can connect to the STEP system.

Mr. O'Connor answered no. He said that it operates like a normal sewer.

Dr. Zudans asked if Vero Beach was one of the first communities engaging the STEP system. Mr. O'Connor said no that there were earlier adapters on the east coast.

Mayor Howle opened and closed the public hearing at 8:09 p.m., with no one wishing to be heard.

**Mr. Sykes made a motion to approve the Resolution. 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.**

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

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

- A) **An Ordinance of the City of Vero Beach, Florida, relating to the Tree Replacement Fund; Amending Title VII, Land Development, Chapter 72, Landscaping and Tree Protection, Section 72.43(i)(1) 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 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 March 5, 2019 at 5:00 p.m.

### **Public Hearing to be held on February 19, 2019 at 3:00 p.m.**

- B) **A Ordinance of the City of Vero Beach, Florida, amending Chapter 30, Section 30-2, of the Code of the City of Vero Beach, Florida, related to amend the definition of Qualifying Period; Amending Section 30-3 to provide the City Clerk to inform Candidates of missing or incomplete filings requiring check to be signed by the Treasurer or Deputy Treasurer and stating acceptance of check does not prevent finding a person did not qualify later, and amending what forms the Clerk may and may not accept prior to the Qualifying Period; Section 30-6 removing the Canvassing Board from the Qualification Decision Making Process, Clarifying Chapter 106, Florida Statutes, Application to Qualification, and Directing Individuals with standing to pursue Litigation to Challenge Qualification; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that it would be heard at a public hearing on February 19, 2019 at 3:00 p.m.

7. CITY CLERK MATTERS

A) Appointment to Board/Commissions

**Planning and Zoning Board**

Mr. Richard Cahoy serves as an alternate member on the Planning and Zoning Board. His term expired on December 15, 2019 and he would like to be reappointed.

Applications on file:

Ms. Neli Santamarina

**Dr. Zudans made a motion to reappoint Mr. Richard Cahoy to serve as the alternate member on the Planning and Zoning Board. Mayor Howle seconded the motion and it passed unanimously.**

**Tree and Beautification Commission**

There is one (1) full position and two (2) alternate positions open on the Tree and Beautification Commission.

Applications on File:

Katherine Booth

**Dr. Zudans made a motion to appoint Mrs. Katherine Booth to the Tree and Beautification Commission. Councilwoman Moss seconded the motion and it passed unanimously.**

**Fire Pension Board**

There is one (1) full position open on the Fire Pension Board.

Applications on File:

Norman Wells

**Mr. Sykes made a motion to appoint Mr. Norman Wells to the Fire Pension Board. Councilwoman Moss seconded the motion and it passed unanimously.**

Mrs. Bursick brought up some suggestions for combining some of the City's Commission/Boards because of the trouble that they have encountered in filling vacancies on some of their Commission/Boards. The following were some suggestions: 1) Combining the Marine Commission and the Recreation Commission; 2) Combining

the Architectural Review Commission with the Planning and Zoning Board; and 3) Having a Magistrate handle the Code Enforcement Board. She provided Council with a copy of the number of meetings that the Commissions/Boards have held for this year as well as what category they fall in as far as being an Advisory Board, Regulatory Board or Statutory Board. She asked Council to think about this and she will bring it back at their next Council meeting.

Dr. Zudans asked Ms. Honse to tell them how replacing the members on the Code Enforcement Board with a Special Magistrate would work.

Ms. Honse explained that their Code already allows for a Special Magistrate to be appointed. She said that the Special Magistrate would sit in lieu of the Code Enforcement Board. They would be responsible for drafting the Code Enforcement orders, which would relieve some of the work that City staff does now. She said that this has become a more common method of Code Enforcement throughout the State of Florida.

Dr. Zudans asked what would the cost be to have a Special Magistrate. Ms. Honse explained that an attorney would have to be hired to handle this position. Dr. Zudans wondered if it would be a lot more costly to the City in having a Special Magistrate. He was told it would be one-hundred percent.

Mayor Howle stated that his point of view on this was if they are in dire need to make that change, then make it if that is their only choice. When they have a Board they have certain individuals who believe in certain things so they have a spread of what might be represented of the community. He would not be for a Magistrate unless they could not get a quorum together and they were in a dire situation in which case they would have to.

Mrs. Bursick noted that she did receive a phone call this morning from a City resident interested in serving on the Code Enforcement Board. Unfortunately, this Board has had three openings that have not been filled in over a year.

Dr. Zudans commented that another option would be combining the Tree and Beautification with the Code Enforcement Board.

Ms. Honse explained that the Code Enforcement Board is a Statutory Board and the Tree and Beautification is a Regulatory Board so their roles are different. She felt that the Tree and Beautification Commission would be better wrapped up with the Planning and Zoning Board or combining the Historic Preservation Commission and the Tree and Beautification Commission.

Dr. Zudans explained he suggested that because those same people might have a similar interest.

Mr. Sykes suggested that anyone serving on these Commissions, at the next meeting when they discuss this again that the Council would love to hear their input.

## **8. CITY MANAGER MATTERS**

### **A) Request for Proposals (RFP) for Consulting Firm to Provide Planning Services for Three Corners Site**

Mr. O'Connor reported that this Request for Proposal (RFP) will be for requests for proposals from qualified planning firms to lead a facilitated planning and design charrette process that involves the engagement and participation of the community in the creation and evaluation of alternative development scenarios for the three City-owned properties. Firms submitting proposals must have substantial relevant experience in providing services of similar scope, complexity, and magnitude.

Dr. Zudans asked Mr. Jeffries if he has experience in handling something like this.

Mr. Jeffries said yes. He gave an example of a master plan that he worked on in Riverview Park in Daytona Beach. He said the whole process took about four (4) months.

Dr. Zudans wanted to see the whole community weigh in on this project.

Mr. Jeffries talked about an on-line stakeholder survey, which a lot of communities use during this process to make sure that the entire community is engaged in the process.

Mr. O'Connor stated that the selection committee will submit the recommended award to the highest ranked proposers to the City Council. Once the preliminary contract is negotiated, it will be brought forward to the City Council for approval.

Dr. Zudans commented that this is one of the most important things that a City Council will do (providing the future for the three corners site).

### **B) Payoff of Series 2007A Marina Loan**

### **C) Payoff of Series 2007B-2 Dodgertown Loan**

\*Please note that both items were discussed together.

Mr. O'Connor reported that the Finance Commission voted unanimously to support paying off both the Marina loan and the Dodgertown loan. The Marine Commission voted unanimously on the Marina payoff.

Ms. Cynthia Lawson, Finance Director, reported that in April of last year, staff had a series of recommendations as to what to do with residual proceeds from the Electric sale and the paying off of the Marina loan and the Dodgertown loan were in those recommendations, which were unanimously endorsed by the Finance Commission and they ended up in the City's adopted budget for 2018/2019. She said now they have the proceeds and they are before the City Council to move forward with them as budgeted.

She reported that both loans have pre-payment penalty clauses in them and the cash savings from paying off these loans are better than what they thought when they put the budget together. She said the reason they should pay off the Marina is that no matter what they do with the Marina, the problem remains with this debt service in place of about \$335,000 a year they don't have any money to put into it in terms of capital. If they pay off this loan there is a cash savings and they will have \$335,000 a year and can start making improvements to the Marina. She said the Finance Commission reviewed the analysis and unanimously recommended it. However, the numbers have changed since they saw them. She explained that quotes are only good for nine (9) or 10 days and each time they receive them the numbers are different. In this case the bank made a mistake on the first payoff quote and discovered it the second time, which was not in the City's favor. She said in it is one of those things where the bank would have found it anyway and it states in their quotes at the very end that if they discover later that there is money the City owes, they will come back and ask the City for it so it was going to happen either way.

Mayor Howle said it is still beneficial to pay off the loan.

Ms. Lawson said it is not as good as it was a few weeks ago, but it is still worth pursuing.

Mr. Sykes asked if the City Council votes on this tonight can she pay it off tomorrow.

Ms. Lawson explained that the quotes are good until February 8<sup>th</sup>, so if the City Council votes to approve it staff will transmit the funds to the bank and get it paid off on February 8<sup>th</sup>.

**Mayor Howle made a motion to pay off the Marina Loan. Vice Mayor Sykes seconded the motion.**

Mayor Howle opened and closed public comments on this item, with no one wishing to be heard.

**On a roll call vote, the motion passed 5-0 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

Mayor Howle asked is it the same kind of story with the Dodgertown property.

Ms. Lawson answered yes. She said the real reason to pay off the Dodgertown loan is a little different because it is in the City's budget, it saves the City about \$660,000 a year in one-cent sales tax revenue that could be used for stormwater, infrastructure, etc. She noted that their current budget assumes they are going to pay it off so if they don't, there is about \$660,000 worth of projects each year for the next five (5) years that would have to come back out of the budget.

**Mayor Howle made a motion for approval (to approve pay off of the Dodgertown loan). Vice Mayor Sykes seconded the motion.**

Mayor Howle opened and closed public comment on this item, with no one wishing to be heard.

**On a roll call vote, the motion passed 5-0 with Dr. Zudans voting yes, Colonel Young yes, Councilwoman Moss yes, Vice Mayor Sykes yes, and Mayor Howle yes.**

Dr. Zudans reiterated his concern about what happens when there is a pile of money sitting in the General Fund that has not been earmarked. He said when they made the decision to sell the Post Office they decided they were going to create a fund related to Lagoon projects and they had other allocations. He wanted to make sure they set up reserve funds and asked if there is some type of an ability for the City Council to make it possible if necessary, but more difficult for future City Councils to go and raid these funds for things other than what was intended. He knows there was a large amount of proceeds that they never did designate where they were going. He asked for Ms. Lawson's input or advice on where they should designate these funds. He felt it would be a good idea that they have some kind of rainy day or reserve fund that if a future City Council decides they want to spend that money it becomes obvious to the public that they are taking funds out of a rainy day or reserve fund in order to spend it on some current expense. He said that he is really concerned that the minute any issues that comes before the City Council the first thing someone is going to say is they have lots of money so let's spend it. He would like some kind of strategy that is amenable to the City Council so that they have some kind of protection from another City Council that comes in and starts raiding money for everyday expenses.

Ms. Lawson referred to recommendations that she and the City Manager made (on file in the City Clerk's office), which was endorsed by the Finance Commission, was for four (4) or five (5) critical things with the first round of it and those were put into the City 's budget. She thought it was Dr. Zudans during the Budget Workshops who said on the money they are setting aside to pay down the Pension Fund in the General Fund to restrict it by Resolution and put it into reserve so that money cannot be raided. She said with the funds leftover after the recommended projects are completed, the City Council can adopt a Resolution designating it for a purpose. She noted that any future City Council can amend that Resolution, but they would have to do it at a public meeting.

Dr. Zudans understood that, but he wanted it to be in a way that if they do they should be justifying it to the public, such as for hurricanes, or other reasons as to why it is appropriate when they are doing it and not just spending it.

Ms. Lawson said hurricanes are a great example. She explained that the City has a \$2 million reserve for hurricanes, which is not enough in an environment where they might have to wait four (4) years to get their money back. She said if there was a serious hurricane they would need far more money than that for immediate needs.

Dr. Zudans asked Ms. Lawson to look at this and to make a recommendation to the City Council on the hurricane and disaster funds.

Ms. Lawson said the City has an adopted fund balance policy that designates a disaster reserve that is other than just for storms so they could adjust that amount.

Dr. Zudans asked can they make part of this year's projects to decide where they are going to designate the rest of the proceeds from the utilities and how to protect them from imprudent short-term uses.

Mr. Sykes said they do have disasters, such as a sewage spill, so it might be a good idea to put funds away for those types of disasters as well.

**9. CITY ATTORNEY MATTERS**

None

**10. COUNCILMEMBER MATTERS**

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

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

Mayor Howle reported that he attended with Councilwoman Moss the Purple Heart Canes Woodcarving event at the Seals Museum. He said it is for a great cause. He said unfortunately the weather was not nice, but there was still about 50 canes handed out.

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

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

No report given.

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

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

Councilwoman Moss reminded everyone to get out and vote on February 26<sup>th</sup> or vote by mail. She said that this Saturday will be the Prom at Walking Tree and the theme is the 50's.

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

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

Mr. Young thanked Mr. O'Connor for his services and said if there was any way that he could prevent him from retiring that he would.

Mr. O'Connor reported that there were 498 tons of pollutants/debris that were removed by the street sweeper before it went into the water ways (memo on file in the City Clerk's office). He said this was a question asked by Dr. Zudans.

Dr. Zudans commented that the City looks better when you have a street sweeper. He said maybe they could hire another street sweeper and use the funds from the account that they have designated for the Lagoon.

Mr. O'Connor recommended waiting until budget time before they do anything.

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

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

Dr. Zudans expressed that he liked having the Live Like Cole Foundation attend their meeting tonight. They have already completed two (2) different projects for the City. They do their own fundraising so the government is not spending any money. He is also excited about the plans that Vero Beach Rowing is working on.

Mr. O'Connor mentioned that the Dog Park organization will be coming back to the Council in the near future requesting a longer lease period.

**12. ADJOURNMENT**

Tonight's meeting adjourned at 10:03 p.m.

/tb