

**SPECIAL CALL CITY COUNCIL MINUTES
FRIDAY, FEBRUARY 7, 2020 8:30 A.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Tony Young, Mayor; Laura Moss, Vice Mayor; Robbie Brackett, City Councilmember; Joe Graves, City Councilmember and Rey Neville, City Councilmember
Also Present: Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

1. CALL TO ORDER

Mayor Young called the meeting to order at 8:30 a.m.

2. ROLL CALL OF COUNCIL

The City Clerk performed the roll call.

3. CITY ATTORNEY REQUEST FOR CITY COUNCIL ADVICE ON ONE MATTER IN LITIGATION:

- A) Private Attorney – Client Session to discuss settlement negotiations and strategy relating to litigation with regard to the case of 725 Azalea LLC et al v. City of Vero Beach – Case #19-5531**

MAYOR SHALL ANNOUNCE PURPOSE OF THE PRIVATE MEETING, ESTIMATED LENGTH OF THE SESSION AND NAMES AND PERSONS ATTENDING: The estimated time of the closed-client session is 30 minutes. Present at the attorney-client session will be Mayor Tony Young, Vice Mayor Laura Moss, Councilman Robbie Brackett; Councilman Joe Graves and Councilman Rey Neville ALSO PRESENT: City Manager, Monte Falls; City Attorney, John Turner and a Court Reporter from the Firm of Indian River County Court Reporting, LLC

Mr. John Turner, City Attorney, stated that this Executive Session is a client session to discuss the settlement negotiations and strategy relating to litigation with regards to the case of 725 Azalea LLC et al versus the City of Vero Beach, Case #19-5531.

Mayor Young stated that the estimated time of the closed-client session is 30 minutes. Present for the meeting will be all of the City Council along with the City Manager and City Attorney.

4. PRIVATE ATTORNEY – CLIENT SESSION COMMENCES

The Executive Session was held in the City Manager’s Conference Room. Once concluded the City Council will reopen this meeting to discuss the proposed hearing.

5. MAYOR REOPENS PUBLIC MEETING AND ANNOUNCES TERMINATION OF ATTORNEY-CLIENT SESSION

Mayor Young reopened the meeting at 9:15 a.m. He said at their last Council meeting they announced that they would start their public meeting at 9:30 a.m. He then adjourned the meeting and reopened it at 9:30 a.m.

Mr. Turner stated at this time he asked the City Council to give him direction as to the proposed settlement made by the petitioners in this case.

Mayor Young asked if there was a motion. No motion was made so the Council continued with their meeting.

6. DISCUSSION OF OTHER MATTERS:

A) Szechuan Palace

Mr. Graves stated that he brought this item up at the last City Council meeting. The property is going for auction today. He understands that Mr. Falls has contacted the Florida Department of Transportation (FDOT) about transferring the property to the City at no cost as long as it is used for public purposes. He doesn't know what that use will be, but they are kind of up against the wall. If there is a mechanism for the City to get the building at no cost it gives them some time to come up with some options on how they can use it. If not the property could revert back to FDOT.

Mr. Falls reported that FDOT's actual bid date receipt is today at 3:00 p.m., in Ft. Lauderdale. So all bids for the property must be received by 3:00 p.m. today with a minimum bid of \$146,000 with 10% of that being due at the time of the bid. He could get back in touch with FDOT to see if they wanted to pursue the government to government transfer and how that would affect the bid process.

Mr. Brackett asked if they had any idea what it would cost to relocate the building.

Mr. Falls said that he did not know. The last building he remembers being relocated was the old Sam Moon building. He does not have a feel for the cost.

Vice Mayor Moss commented that when they relocated the Laura Riding Jackson home it was several hundred thousands of dollars to move that building.

Mr. Falls commented that moving the building may change its historic significance. He just needs some direction from Council on how to proceed.

Mr. Graves commented that if they could get a government to government transfer at no cost to the City it would give them some time to determine if there is something they can do with the building. Otherwise they are going to lose the property today.

Mr. Neville felt if they had the opportunity to do a government to government transfer it puts the situation in a holding pattern. Then for those people who love these historical artifacts they would have the chance to explore what needs to be done.

Vice Mayor Moss asked if they knew that the building needed to be moved.

Mr. Falls said the building does not need to be moved. He said that FDOT will transfer the property to the City and then the City can do whatever they want with this property. They (FDOT) mentioned that they have done government to government transfers for structures that were not historic and they deemed that a legitimate public purpose. He can find more information about what the mechanism is for the government to government transfer and then for some reason if they didn't want to use it for a public purpose what would be the process going forward to see if that would result in any expense to the City.

Mr. Neville said then the public purpose would be to preserve the art work in the building and the structure itself might have to be destroyed, but it would still serves a public purpose.

Mr. Falls did not know if saving the art work runs the test of public service. He asked FDOT if they could get the government to government transfer, could they have a non-for-profit entity operate it as a museum and they said absolutely not. They said if a non-for-profit wants the building they have to go through the public bid process just like anyone else.

Vice Mayor Moss jokingly asked Mr. Falls if he wanted to use it for the new City Hall.

Mr. Graves asked how would FDOT deed the property over.

Mr. Turner said that it would probably be a Statutory Deed and there would probably be restrictions in it for use of public purposes.

Mr. Graves commented that government entities are allowed to transfer properties to non-profits without it going through a bid process. He was not sure how the City could be restricted from transferring to a non-profit.

Mr. Turner said that FDOT could put in any restrictions that they want. They own the property.

Mayor Young asked if there was adequate time to request this action.

Mr. Turner reported that the bid opening is set for 3:00 p.m. today and as of today there are no bids. The City could ask FDOT for this government transfer.

Mayor Young was hesitant to acquire this property and then have additional costs associated with it. He said by making the offer it would give them the opportunity to look at what they could possibly do without losing this chance. He does not want to get into a

situation where the City does not have the option of returning it to FDOT if that is what needs to be done.

Mr. Falls wanted to ask FDOT if they decide that they do not want to use the building for legitimate public purposes, how would they give the property back to FDOT and would it cost them anything.

Vice Mayor Moss asked Mr. Falls to define public purpose.

Mr. Falls said that would be a definition that FDOT decides. They are the property owner. They purchased this entire property and are the owner of record. They have the rights to do with that property whatever they choose to do with that property. FDOT is trying to recover some of the costs that they have invested. They bought the property because they needed a certain amount of the land for the widening of 43rd Avenue.

Vice Mayor Moss asked if they knew what the maintenance of the building would be if they take it over.

Mr. Falls commented that this building is almost 50 years old and was moved to this location. He said the older structures are the more it cost to maintain them.

Mayor Young invited Mrs. Stanbridge to speak.

Mrs. Ruth Stanbridge, County Historian, commented that she did send the City Council some information (on file in the City Clerk's office) regarding the historical significance of the building and said that it would easily go on the National Register. This would allow the City to have grant opportunities. She said sometimes old buildings do not cost more than new buildings to maintain. She said if they are upgraded and kept up they are just like any other building. The Historical Society talked about putting in a bid for the property, but they already have two (2) buildings that they are taking care of. They fear that whoever purchases this building will tear it down. They have had to stop several people from coming in and taking their old buildings that have date pine in them and buying the building and destroying it. It is such a waste to buy a historical building and then take it apart. She heard that some of these companies in South Florida were going to bid on the property and then take it apart.

Mayor Young questioned the significance of the property.

Mrs. Stanbridge explained that they started working with Mr. Ralph Sexton on this in 2004 and then FDOT went away because of the hurricanes. In 2014, FDOT had their consultants do a master site file and make a determination that it had no historic significance. She said this consultant never contacted the Historical Society, local government, or anyone else that she knows about. They did not even take pictures inside the building. Then the Historical Society got busy within the last year to receive notice that the property would qualify for National Register. She said in District 4 (FDOT), there were some personnel change over and they don't have all the information.

Mayor Young asked if they accepted the property from FDOT, is there any restriction on their use of that property. Could they solicit bids for the property from agencies that would be appropriate.

Mr. Falls said absolutely not.

Vice Mayor Moss asked if this is going to be a government to government transfer, does that mean that they are not paying for the property itself.

Mr. Falls answered yes.

Vice Mayor Moss continued by saying with regard to maintenance, she knows there will be maintenance costs, but they don't know what they are. She was thinking that they have that very long list of offerings that they hope to have at the Power Plant site. It was quite a long list and they are not exactly sure what that configuration will be. She said there might be something that won't fit at the Power Plant site that they would want to put at the Szechuan Palace site and they could consider it as backup for the Three Corners site. It is also interesting that it is at the western most border of the City. So you have what they are calling the heart of the City (Three Corner's site) and then they have something in the western most border that they might want to use. Maybe one (1) of the proposals for the Three Corners site might be better suited for that piece of property. They were not thinking about that piece of property during the week long design session. She said lets do it. She will make a motion if one (1) is needed.

Mr. Graves felt that they needed to access the property to see if it was viable to see if they can do something with it and if not revert it back to FDOT.

Mr. Brackett said that is the big question. Can they revert it back.

Mr. Falls said if they could have a government to government transfer and then if the City decides they don't want it for bona fide public use, the question is can the City give it back to FDOT. This would be a question that needs to be answered by FDOT. He will look at it from their point of view and they will say that they are right back in the position that they are in today and they want the property sold.

Mr. Graves stated the other option would be not to restrict the use to a non-profit, such as the Historical Society to run a museum or historically significant to the community.

Mr. Falls reiterated what FDOT specifically said.

Mr. Graves felt that they had the flexibility of doing what they want on a government to government transfer.

Mr. Jason Jeffries, Planning and Development Director, stated that the City has to retain ownership of the property. He said they just can't transfer the property to a non-profit

organization. He wants to verify that with FDOT. The question would be can a non-profit organization run it.

Mr. Turner explained that a non-profit group would enter into a license or use agreement, but the City would maintain the ownership of the property.

Mayor Young asked Mrs. Stanbridge if the property was made available to the Indian River Historical Society would they be interested.

Mrs. Stanbridge could not speak for her Board, but said they would encourage friends of the Historical Society to get involved, such as Pelican Island Audubon Society.

Mayor Young was concerned about how much the Historical Society was taking on.

Mrs. Stanbridge said they would only work it from the docent angle, which means not paying the light bill, etc. She was assuming that would be the City's responsibility if they own the building. She said when you look at the Railroad Station where the Historical Society is located, the Historical Society does not own that land. She said it is under a lease, which is the same way with the Heritage Center. The building is leased from the City. So the City already has some historical buildings. She said they contribute as a whole to their sense of place, which contributes to tourism. The building has to be considered an asset and not a liability.

Mayor Young had some concerns with the upcoming budget so they needed to keep that in mind.

Mr. Steve Erickson, Chairman of the Historic Preservation Commission, stated that the Historic Preservation Commission was interested in finding a way to preserve the building. If they are not able to preserve the building then at least preserve the artifacts in the building. He appreciated Council taking the time to discuss this matter.

Vice Mayor Moss made a motion to pursue this piece of property. Mr. Graves seconded the motion.

Mr. Brackett had no problems with pursuing the property, but wanted those questions answered. He said if they can't give the property back to FDOT if they need to, then what are they going to do with it.

Mayor Young suggested accepting the transfer contingent to the ability to return the property back to FDOT if need be.

Mr. Falls had enough direction from Council and will make some phone calls.

The motion passed 5-0 with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss yes, and Mayor Young yes.

B) Annexation

Mr. Graves commented that during the Three Corners presentation a lot of people were disappointed that they don't live in the City limits. He has discussed this with the City Manager and to him it makes sense to focus on a voluntary annexation of South Beach from where Castaway Cove is located down to the St. Lucie line. The City already provides services and there is 7½ miles of roads that requires maintenance and the only identified additional cost would be for police protection. But, they could potentially add another \$3.5 million in taxes for increased revenue for their budget. The City shoulders a lot of burden for the region with 18,000 residents and he thinks that people on South Beach enjoy the facilities and services that the City provides. He said from what he has heard those residents would like to become a part of the City. They would pursue having this voluntary and he would like to get this "ball" rolling.

Mr. Brackett liked what Mr. Graves was saying. He said typically annexing residential is not always the most profitable thing to do. However, of all the places in the City this one (1) location is not the case because of the values there.

Mr. Falls expressed that because of the values and numbers of roadways and streets that are private or State maintained makes a difference. He said if you get into a situation where all the streets are public and you add all these services, residential, because of its density, barely breaks even. This is consistent with their Comprehensive Plan with areas in their utility area and South Beach is one (1) of those.

Vice Mayor Moss added that they have expressed interest in the past. The South Beach Homeowner's Association invited her to speak when she was Mayor at their public meetings to discuss this matter. She reiterated that there is a history of interest.

Mr. Neville brought up Rockridge Subdivision and suggested maybe annexing them into the City since they are so close to the Three Corners.

Mr. Falls explained that the services for Rockridge are done by Indian River County. In order for them to be annexed into the City it would take a plan amendment of their Comprehensive Plan. He said that he would do some more research and bring this matter back to the City Council. He would not proceed with doing anything. He said he would just be gathering information for the Council and getting back to them on what he finds.

Mr. Graves mentioned that a couple days ago a State Trooper was shot in Palm City. He was approaching a disabled car and rendering aid to a stranded motorist and his life was taken. He said what other job is there that you kiss your wife goodbye when you leave for your job not knowing if you will return home or not. He asked that a moment of silence be taken.

Mayor Young reminded everyone about the fundraiser that will be held on Saturday to help raise money for the families involved with the Holy Cross Rowing Team and the tragic automobile accident that occurred. He said that different people will be taking different

shifts in order to row for 62 hours straight. The event will take place at Vero Fitness. Also at Young's Park on Saturday morning there will be the Cupcake Run where some of the money raised will be contributed to the Police Department.

Today's meeting adjourned at 10:01 a.m.

/tb