

**CITY OF VERO BEACH, FLORIDA
MARCH 17, 2020 8:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Dan Holloway of Unity Spiritual Center of Vero Beach.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

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

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – March 3, 2020

Vice Mayor Moss made a motion to approve the March 3, 2020 minutes. Mr. Graves seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – February 25, 2020

Mr. Neville made a motion to approve the February 25, 2020 Special Call City Council minutes. Vice Mayor Moss seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Monte Falls, City Manager, pulled item 9-C) “Beachside Parking Engineering Services” off of the agenda. This item will be discussed at a later date.

Vice Mayor Moss said that she would like to add a CoronaVirus update on to today’s agenda. She has already spoken to the City Manager about it and he will be giving the update. She asked that this be done at all of their future meetings starting today and that they begin the meeting with it. She said there is a lot of misinformation out there or lack of information and she thinks that Council should encourage the community to look to them and their local media for information and not find it by random comments on

facebook. She asked Council to consider reaching out to the community by starting every meeting with an update on the CoronasVirus with the latest information that they have. She asked Council to consider starting this today.

Vice Mayor Moss continued to say that she would like to establish a pattern where they start every meeting with an update so the public will know that and can expect it. The community would not have to watch the whole meeting if they did not wish to. The meetings are televised and recorded and replayed so they can be watched by the public at their convenience and they can also be watched on the City's website at covb.org. The City's website has information and links regarding the CoronasVirus.

Mayor Young said so following the Proclamation they would have an update on the CoronasVirus by the City Manager.

Vice Mayor Moss suggested starting with talking about the CoronasVirus and then read the Proclamations.

Mayor Young told Vice Mayor Moss that she just reversed what he said. He was fine with having the CoronasVirus discussed after the approval of the minutes.

Vice Mayor Moss commented that it does not necessarily have to be given by the City Manager. It could be given by the Police Chief or whoever the appropriate person is.

Mr. Graves understood that the Beachside Parking has been pulled from the agenda, but when this gets put back on the agenda he felt that all sides need to be heard. He said now from the comments that they have received over the last couple of weeks they have two (2) options and that is to go with paid parking (license reader) or adding additional parking spaces. He felt that the public for both sides of the issue need to be present and all heard together.

Vice Mayor Moss commented that the City Manager is working on a way for people to call in and will address that as part of the update on the CoronasVirus. She agreed that people need to be heard.

Mr. Falls said that he could revise the item with the information that they put together about a year ago that talked about the options of the license plate reading and the option of having paid parking with a kiosk.

Mr. Graves commented that they have heard from the beachside businesses and now they need to hear from the public that utilizes the beach for parking, as well as from the homeowners in regards to the parking spaces west of Cardinal Drive.

Vice Mayor Moss requested the City Clerk to pull the minutes of all past meetings where parking has been discussed going back to 2016 when Mayor Young and herself started on the City Council. This way the Council would have the history. She asked that this information also be made available on the City's website. She asked the Clerk to make

copies of the letters that Council received from people not in favor of paid parking. These letters were sent before Mr. Graves and Mr. Neville got on Council.

Mr. Graves was aware of that, which is why he wanted to have a meeting where all these people are attending the same meeting. They have expressed concern for their beachside businesses and there are two (2) options for them to be looking at and those options need to be pursued. This has been talked about for a long time and nothing has been done so they need to do something.

Mr. Neville brought up a third option and that would be if they can find some spare parking on the beach and the owners would like to share it is a possibility and need to continue to explore that as well, which is something that he is doing.

Vice Mayor Moss made a motion to accept the agenda as amended. The motion was seconded and it passed unanimously.

Mr. Falls introduced to Council and the public, Mr. Jim O'Connell, who is the new Recreation Director.

Mr. Jim O'Connell introduced himself and briefly went over his background.

Mr. Falls gave an update on the CoronaVirus (COVID-19). He said that he is engaging in conference calls with the County Administrator and the other City Managers in the County so they are all on the same page. The Governor has declared a State of Emergency in response to COVID-19 that threatens the State with a serious health emergency. This just allows them to have some flexibility in purchasing procedures and bargaining groups without violating any contracts that they have. City Hall remains open for business with their normal business hours. They are implementing some enhanced cleaning by their janitorial service. The public is still welcome to come to City Hall, but if they have any of the symptoms of the virus we ask that they not come in and to do their business over the phone. They have cancelled all of the City Board/Commission meetings through April 2nd. Also, all of the recreation activities have been cancelled. He has suspended all outside conferences or training for City employees unless it is absolutely necessary. All the information coming in regarding the virus is being posted on the City's website and Indian River County is doing the same. There are two (2) other agencies that are very much involved and they are the Florida Department of Health and the Center for Disease Control. As of this morning there were 142 positive cases in Florida. There are no positive cases in Indian River County, Brevard, St. Lucie, or Martin County. There have been four (4) confirmed cases in Osceola County. They are encouraging any employee or someone from the public that is sick to please stay at home.

Vice Mayor Moss thanked Mr. Falls and Chief Currey for sending out information on Next Door and letting people know that the parking item was being pulled from today's agenda.

Chief David Currey spoke and said that operations are normal. He did spend late last week up until yesterday cancelling events. His department provides services for some of the

local churches and Farmers Market and those services will not be provided for the next two (2) weeks. A lot of the churches are holding services via internet. The Hibiscus Festival and the yearly Prayer Breakfast have been cancelled.

Mr. Falls reported that prior to the next City Council meeting they will come up with a method for the public to comment without attending the meeting. The City is also providing through their insurance carrier virtual doctor visits without having to physically go into the doctor's office, which is very helpful in times like this.

Mayor Young added that their intent is to safeguard all measures to manage the health crises. He said the City of Vero Beach and staff are engaged. They are working hand in hand with the emergency services. Mr. Ted Stone, Fire Chief, has extended his support for the City. They have done a good job engaging this ahead of time.

Chief Currey added that his department has discontinued finger printing at this time to minimize contact.

Mayor Young commented that there will be an update from the emergency services on Monday, Wednesday, and Friday. The Emergency Operations Center (EOC) has not opened yet, but when it does the City will have a representative at the EOC providing necessary information. Any concerns from the public should reach out to the City who can help with finding them some answers.

B. Proclamations and recognitions by Council.

1) American Red Cross Month – March 2020

Mr. Graves read and presented the Proclamation.

2) Equal Pay Day – March 31, 2020

Vice Mayor Moss read the Proclamation.

3. CONSENT AGENDA (include amount of expense)

A) Hanson Professional Services – Amendment #2 to Work Order No. 4 to Construct Ramp (FDOT 437981-1-94-01/Rehabilitate (North Apron) - \$352,511

B) Amendment to Pickleball University, Inc., License and Construction Agreement dated October 15, 2019

C) Agreement Consenting to Indirect Transfer of Fixed Base Operator Lease Agreement (Parcel N3) from Treasure Coast Air Services, LLC, to Corporate Air, Inc.

D) Agreement Consenting to Assignment of Commercial Lease Agreement (Parcel 33) from the Oculina Bank to IThink Financial Credit Union

E) School Resource Officer Gun Safe - \$585.00

Mr. Brackett made a motion to approve the consent agenda. Mayor Young seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1. An Ordinance of the City of Vero Beach, Florida, Abandoning all of the City's interest in a certain sixty (60) foot right-of-way of an un-named street, lying East of Royal Palm Boulevard in Royal Park, Plat Book 4, Page 79, of the Public Records of St. Lucie County, Florida, said lands lying and being in Indian River County, Florida; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Public Works Director**

The City Clerk read the Ordinance by title only.

Mr. Falls reported that the City received an application for consideration to abandon the right of way on the un-opened and un-named street lying east of Royal Palm Boulevard in Royal Park. The right of way is surrounded by the Venetian Apartment properties and has never been utilized as a roadway. This request was routed for review to the various City departments and utility providers, which may be affected by the abandonment and based on the comments received back an easement will be retained over the south 25 feet of the right of way and all recommend approval.

Mayor Young opened and closed the public hearing at 9:04 a.m., with no one wishing to be heard.

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

- 2. An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the Zoning District Designation of annexed property from Indian River County designation RS-3, Single-Family Residential District to City of Vero Beach Designation R-1A, Single-Family Residential District, for the property consisting of all of Somerset Subdivision, as recorded in Plat Book 15, Page 25, of Indian River County, containing 3.57 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.

Mayor Young conducted the procedures in place for holding a quasi-judicial hearing. There was no disclosure made by the City Council concerning ex parte communications. The Clerk swore in the Planning and Development Director, who was the only person

testifying at today's meeting. Mayor Young asked that all exhibits referred to during the testimony be marked for identification and kept by the City Clerk.

Mr. Jason Jeffries, Planning and Development Director, was sworn in. He explained that the subject property was annexed into the City in 2003. During the annexation process the City is required to change the Future Land Use Map and Zoning District designations for the annexed properties from Indian River County designations to City designations. The Future Land Use Designation was approved in January, 2004. The City Council never adopted the zoning designation for these properties located on 11th Terrace in the Somerset Subdivision, which is on the north side of 30th Street. He said that is the reason that they are considering this Ordinance today.

Mr. Jeffries gave a Power Point presentation (attached to the original minutes). He showed on the various maps where this property is located. The proposed zoning is consistent with the area neighborhood. Staff has reviewed the proposed zoning map change based on the standards for considering amendments as required in Chapter 65, Article II, of the City's Land Development Regulations. The amendment is justified based on the requirement to designate annexed properties with the City of Vero Beach zoning, the development of this subdivision with single-family residential uses, and compatible with surrounding residential development. It is consistent with the Land Use Element Policy 1.4. The amendment is compatible with the zoning map designation within the immediate vicinity of the proposed change. Changed conditions to the property, neighborhood, or the area in the vicinity in which the property is located warrant this amendment. The amendment is consistent with the concurrency requirements of the Comprehensive Plan and Land Development Regulations. The Planning and Zoning Board voted 5-0 to approve the Ordinance. Mr. Jeffries recommended that the City Council also approve the Ordinance.

Mayor Young proceeded to go through the necessary quasi-judicial hearing procedures. There was no rebuttal public testimony given.

Vice Mayor Moss made a motion that based on competent substantial evidence presented and the applicable code provisions that they grant the application and adopt the Ordinance as proposed. Mr. Neville seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss yes, and Mayor Young yes.

B) RESOLUTIONS

- 1. A Resolution of the City Council of the City of Vero Beach, Florida, authorizing the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation for a Project entitled "Rehabilitate GA Apron (Construction)" (FDOT #445874-1-94-01); Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that this project is included and approved in the adopted Airport five-year capital improvement Plan and the 2016 Airport Master Plan. This project will rehabilitate a public aircraft-parking apron for existing aviation activity, including corporate jets, in the vicinity of Sun Aviation and the Airport Terminal Building. It will extend the usable life of the approximate 300,000 square feet of apron pavement.

Mayor Young opened and closed the public hearing at 9:13 a.m., with no one wishing to be heard.

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

2. **A Resolution of the City Council of the City of Vero Beach, Florida, authorizing the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation for a Project entitled “Rehabilitate Runway 12R/30L” (FDOT #434636-1-94-01); Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the scope of this project is to complete design work to rehabilitate the existing main runway for primary aviation activity, including airline operations and jet traffic.

Mayor Young opened and closed the public hearing at 9:14 a.m., with no one wishing to be heard.

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

5. **PUBLIC COMMENT (3-minute time limit)**

Mr. Bob Auwaerter, Vice Chairman of the Utilities Commission, stated that one (1) of the biggest decisions that has to be made by the City are the options of potentially moving the Wastewater Treatment Plant off of the City Lagoon. That decision will impact ratepayers in the City for at least the next 30 years. At the last Utilities Commission meeting there was some discussion about the options. He read from the minutes the motion that was made at that meeting. The Utilities Commission asked that once Mr. Rob Bolton, Water and Sewer Director, receives the comments back from the County regarding the Waste Water Treatment Plant that the Utilities Commission be able to discuss the information first before the City Council makes a final decision. He then read what the duties of the Utilities Commission are.

Mayor Young asked the City Manager if the information has been provided to the Utilities Commission from Mr. Bolton.

Mr. Falls explained that the information is in draft form at this point. He said that Mr. Bolton just recently received the comments back from the County Utility Director and is working on a final report. Staff has no problem taking this back before the Utilities Commission and allowing them to review the report first. He said he is happy to comply with whatever the Councils' wishes are.

Vice Mayor Moss commented that the Boards and Commissions are not meeting at this time, but if the report is available it can be made available to the Utilities Commission and City Council and then if the Utilities Commission wishes they can send their comments regarding the report to the City Clerk and the City Clerk can distribute the comments to the City Council.

Mr. Brackett agreed that the report needs to get to the Utilities Commission. They have Commissions in place and the Council needs to use them. A lot of those Commissions have more expertise in these different fields than the Council does so they need to use the resources that they have. He wanted to see the report finished and be sent to the Utilities Commission.

Mayor Young asked what kind of time line was the City Manager looking at.

Mr. Falls felt that Mr. Bolton would have the report in final form sometime next week and then this can be wrapped up within a week.

Mr. Neville hoped that this entire process could be conducted before their next meeting.

Mr. Falls said that it would depend on how long the Utilities Commission takes to review the report.

Mayor Young noted that there were three (3) weeks until their next Council meeting so this should be accomplished.

Mr. Graves agreed that they needed input from the Utilities Commission.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

1. Corporate Air/Treasure Coast Air Service Lease – Requested by Councilmember Joe Graves

Mr. Graves pulled this item off of the agenda. He said that the matter has been taken care of.

2. **2020 Census**
 - a) **2020 Census Form**
Requested by Vice Mayor Laura Moss, Vice Chair of the Indian River County Census 2020 Committee

Vice Mayor Moss reported that people will be receiving the census form in the mail and they can go on-line to fill it out. If they do not respond on-line then a form will be mailed out to them and if they do not return that form then someone will come to their home. She said there are very few questions being asked in the form and it is easy to fill out. She briefly went over the form (attached to the original minutes and is on the City's website). Also additional information is available at the Federal website **2020 census.gov**.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

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

A) Ranger Construction Industries Change Order No. 2 and Pay Application 9 for Taxiway E Extension (FDOT #434602-1-94-01) and Rehabilitate North Apron and Construct Ramp Projects (FDOT #437981-1-94-01) - \$152,357.52

Mr. Falls explained that this change order is for the Taxiway E Extension and Rehabilitate North Apron and Construct Ramp Projects. An agreement with the City and Ranger Construction was entered into on October 16, 2018. In an effort to recommend award of a construction contract at the time of bid within available funds, the City elected to eliminate a large portion of sod under this project. Change Order No. 1, which eliminated Taxiway connection E3 and increased quantities of material required for reinforcement mesh on the North Ramp, was approved on October 16, 2018, by City Council. In May of 2019 additional work in the amount of \$152,357.52 for additional sod was authorized by the Airport Director in violation of the City purchasing policy. The work has been completed as certified by Mr. Wesley Teel, resident inspector of Amherst Consulting. Since no change order was submitted and approved for said work in May of 2019, it is being presented as an after the fact change order. The Airport Director will take necessary measures to insure this does not happen again. This change order will not increase the overall project budget or overextend the FDOT grant. Mr. Falls said he has had meetings with the Airport staff and has expressed to them the importance of following the purchasing procedures. He has reviewed the contracts with the City Attorney to make sure that the proper language is in there. He pulled this change order off of the last Council agenda so that he could be assured that the work has been completed and everything is in place. He feels very confident about the project.

Mayor Young asked Mr. Falls from his perspective does he feel that the procedures are in place to deter something like this happening in the future.

Mr. Falls explained that staff is being educated that when administering a contract what the necessary steps are that have to take place.

Mayor Young asked if there have been any other contracts that have been handled this way.

Mr. Falls stated that this is the first one that he has seen with his tenure in the City where a contract change order was not brought to City Council.

Mr. Graves asked who approved the change order.

Mr. Falls said it was the Airport Director.

Mr. Graves asked what is the repercussions in the Ordinance when someone violates the Ordinance.

Mr. Falls said there is nothing in the Ordinance that talks about that.

Mayor Young asked in review of the contract in his eyes did he see any effort to obstruct the guidelines in place.

Mr. Falls said he did not see anything that would lead him to believe that there was wrong activity taking place. He thinks it was done in haste to keep the project moving forward. He explained to the Airport staff how this could have been handled in a different way.

Mr. Brackett asked what was the original amount of the contract.

Mr. Falls said that the original amount of the contract was originally reduced by taking some sod out because not all of the grants were received. Then the sod quantity was placed back in so there was no added work that was not in the original contract.

Mr. Eric Menger, Airport Director, explained that the State approved the additional grant funding for the reintroduction of the sod into the project and Council approved that. He does not believe that he was clear enough when this was brought before Council why that was happening. The bottom line is that the project did get completed under budget and within the grant funding and everything that was done was within FDOT standards. However, this error was made and he accepts full responsibility for doing that. This will not happen again. Additional procedures have been instituted to make sure that this will not happen again. They have done many million dollar projects at the Airport and this is the only time that he can recall that this issue has happened. He said it will not happen again. He is the Captain of the ship and he will make sure that it doesn't happen again and he takes full responsibility for it.

Mayor Young asked if the total impact for this change order is \$152,000.

Mr. Menger said that was correct for the total \$3.3 million project.

Mr. Neville commented that in essence there were two (2) change orders. There was a change order to reduce the scope and then there was a second change order to put it back. He can see the confusion where Mr. Menger might have thought that he would have authority at the original amount.

Mayor Young asked if the other capital improvements on the Airport are in order.

Mr. Menger answered yes. He said that he was not aware of any change orders coming up in the future.

Mr. Graves asked Mr. Menger if he realized that he was violating the Ordinance.

Mr. Menger explained that what he was thinking about at the time was when they put back the sod quantities in the project they would close it out at the end of the project as additional quantities and included as a wash-out. Now he has been shown in the policy that they should have just stopped and made sure they had approval to do so. The State understood what they were doing and didn't have any problems with it, but because of the City's policies it should have been brought back to the City Council.

Mr. Graves felt that was more troubling than if he knew that he violated the Ordinance. The fact that he is the Airport Director and violated a City Ordinance and did not bring this back to Council and didn't realize it is very troubling. He asked the Finance Director about the procedures that they have in place. He said there is an Ordinance to make sure that when change orders are over \$50,000 they come back before Council. This is the taxpayers money that they are dealing with. To play fast and loose with the rules to him is inexcusable. In private industry this would not happen because if it happened once then he would be terminated. He is troubled because he sees the history here of what happened with Elite Airways and the representation to the Council which brought Elite Airways here, the failure to advise Council about this loss of funding once they reached a certain number of enplanements so he has lost confidence in the Airport Director. He is calling for his termination at this time.

Mayor Young commented that the opportunity based upon what they have seen over the years in regards to this matter should not be a matter of public debate and have the opportunity for the City Manager to direct his staff.

Mr. Graves commented that when you have people reporting to the City, especially as something as important as the Airport, they have to be able to rely upon the fact that their employees and their Director is giving them solid information that they can rely on. They make decisions based upon information provided to them. He said not only is there a safeguard involved concerning internal policies of the City to make sure that this doesn't happen there is an Ordinance in place and it was violated. To him if they don't have the

confidence of their City employees to follow the law then how in the world can they have them continuing serving in that position.

Mayor Young said if he felt that was the case then he would agree with Mr. Graves.

Mr. Graves said it is the case. He said that the Airport Director violated the Ordinance.

Mr. Falls stated that all of the City employees report to the City Manager except for the other two (2) Charter Officers and their employees. He has taken steps to remedy the situation and he has some other things that he is working on at the Airport and if they will give him the flexibility of a little bit of time he will bring this to a resolution.

Vice Mayor Moss asked Mr. Falls if he would like to report back to Council on this at their next meeting.

Mr. Falls said the next meeting would be fine.

Vice Mayor Moss asked the City Attorney to also comment on this at the next meeting.

Mr. Turner wanted to give some advice at this point. He said as City Council their direction as far as employees are concerned is limited under the Charter and Ordinances. Their control is over the three (3) Charter Officers and what directions they want to see particular offices or divisions to go in. He asked them to be cautious as to how this approach is handled. He would be happy to make more comments at another meeting, but that is the direction they need to be taking.

Mr. Graves stated that in their City Council workshop meeting he asked the Airport Director when he found out about the Florida Statute and loss of potential FDOT funding or matching grants concerning the enplanements. Mr. Menger told him that he found out about the Statute in 2017, which was incorrect as to what he had told Mr. Falls. So the fact that was misrepresented whether intentional or not, then there is other history with tenants at the Airport and now a violation of an Ordinance. He does not see how the City can have a person in the position as important as the Airport Director continuing on at this point.

Mr. Brackett agreed that this is a serious matter. It concerns him that something like this would happen. This is a large dollar amount and he is happy to hear that the State is still going to participate. However, as the City Attorney has said the Council has limited power over the employees. He trusts that their City Manager is dealing with this in the way that he sees fit. It is his "team" and something that needs to be addressed.

Mr. Graves was not saying that Council had the authority to do that. He called for Mr. Menger's termination. But, with the understanding of the position of Council on this matter is also important.

Vice Mayor Moss agreed this was a very serious matter. She said for the community, it is often thought that City Council controls all City employees. She said they do not. She

explained that the City Manager, City Clerk and City Attorney report to City Council and then within each of their departments their employees report to them. For example, in this case the Airport Director reports to the City Manager.

Mayor Young asked Mr. Falls what is it that he is looking for in regards to this matter.

Mr. Falls asked for approval for the change order, as well as pay request number nine (9) then they will move on to the next item, which will close out this project.

Mr. Graves brought up that this is a project that FDOT is auditing.

Mr. Falls explained that it is a project that the City's auditors chose to take a look at and not FDOT's auditors.

Mr. Graves asked if this was found out because of the audit.

Mr. Falls explained that this came out when the change order appeared in the Finance Department for payment. There was no approval for the change order from the City Manager or the City Council.

Vice Mayor Moss asked Mr. Falls if he felt confident that the expenditure in item 9-A) (\$152,357.52) is warranted and is appropriate and he has reviewed it and it meets his standards.

Mr. Falls said it would not be on this agenda if that did not happen.

Vice Mayor Moss made a motion to approve Ranger Construction Industries Change Order No. 2 and Pay Application 9 for Taxiway E Extension (FDOT #434602-1-94-01) and Rehabilitate North Apron and Construct Ramp Projects (FDOT #437981-94-01) - \$152,357.52. Mr. Neville seconded the motion.

Mr. Brian Heady stated in this discussion they heard one (1) Councilmember say that City employees should not be allowed to play fast and loose in regards to the law and Ordinances. They won't get any argument from him on that one. However, it is interesting that the same Councilmember that brought that up allowed the City Attorney to play fast and loose with the laws and Ordinances by having him removed from this podium for speaking his mind. He said only some get to play fast and loose with the law, rules and Ordinances. They shouldn't have employees violating Ordinances except of course if they are violating Heady's rights and removing him from the meeting. He heard that the Council needs solid information that they can rely on. The City Councilmember asks the City Attorney why he has to leave the podium if he is an elected official. The City Attorney said because he said so. He questioned if there was a law, Statute, or case law showing this. The City Attorney's legal opinion turned out to be wrong and the City Attorney is sitting in his place very confident in his job. He is just saying it is interesting the difference here between one individual and another. They haven't followed the law generally speaking as a Council for years. They were just advised by their City Attorney that they

only have control over three (3) employees. He has served on City Council and understands that. He didn't want to put Tammy or Monte on the hot seat, but if they were asked they would tell Council that not once as a City Councilmember did he go after staff. He went after the City Clerk more than once, he went after the City Manager more than once, and the City Attorney more than once. But, he did not go after City staff. What just happened was unconscionable and should not have happened.

The motion passed unanimously.

Mr. Brackett made a motion to approve the pay request for \$9,723.63. Mr. Neville seconded the motion and it passed unanimously

B) Ranger Construction Industries Change Order No. 3 and Final Pay Application for Taxiway E Extension and Rehabilitate North Apron and Construct Ramp Projects (FDOT #434602-1-94-01 & #437981-1-94-01 - \$395,434.41

Mr. Falls reported that this request is for the original Change Order No. 3 and Pay Application Number 10 for Taxiway Application Number 10 for Taxiway E Extension, and Pay Application Number 4 for Rehabilitate North Apron for Ranger Construction Industries regarding the Taxiway E Extension and Rehabilitate North Apron and Construct Ramp Projects.

Mr. Neville made a motion to approve Change Order No. 3 and associated Final Pay Applications for Range Construction industries. Mr. Brackett seconded the motion and it passed unanimously.

C) Beachside Parking Engineering Services – WO #11 to EC-9-2017 – PW Project #2018-13

This item was pulled off of the agenda.

D) Stormwater Utility

Mr. Matt Mitts, Public Works Director, commented that this is a big item and wanted the consensus from Council on how to proceed with this. He said that the City conducted a Stormwater Utility Study from 2015 to 2017 with Council terminating the utility study at their February 7, 2017 meeting. The City halted the utility study with three (3) out of six (6) phases remaining. The remaining costs in the study was \$30,000 and the costs incurred was \$100,000. The utility study projected \$1,000,000 in stormwater revenue for capital expenses assigned to stormwater functions. These expenses are currently funded by the City's General Capital and Construction Fund primarily from the one-cent sales tax sharing and grants. No operating expenses, such as staff salaries, were proposed to be funded with the stormwater utility. The utility fee which generated \$1,000,000 in annual stormwater revenue was estimated to be \$5.00 per month for a typical single-family residential dwelling referred to as an Equivalent Residential Unit (ERU). Fees from properties would

be prorated based on the amount of impervious area on the property. The study was halted at the point where Council was to choose a monthly utility bill or an annual non-ad valorem assessment billing method. Remaining tasks included drafting Ordinances, establishing a utility billing database, and formal utility adoption. The Florida Department of Environmental Protection (FDEP) has indicated since 2018 that the City and other local stakeholders will be receiving mandated nutrient reduction targets because seagrass levels identified in the Basin Management Action Plan (BMAP) for the Indian River Lagoon have not been met. The City has not yet received the reduction targets from the FDEP. Once the City receives the nutrient reductions, staff plans to hire a consultant to review and verify that the FDEP assessment is accurate. The City will then develop a plan of projects and activities to meet any reductions beyond the City's current nutrient reduction methods including the deep injection well, STEP system, Public Works maintenance activities, street sweeping, baffle boxes, etc. This should go into effect this year and will impact their budget. It is considered an unfunded mandate.

Mayor Young asked if there was additional money available this year to replace as an example culverts that needed to be replaced or repaired.

Mr. Mitts said that there is money available. He said the last thing that they want to see is a culvert failure because that would mean that the necessary maintenance was not being done. He feels with the resources that they have they are maintaining the level of services, but the problem that they sometimes run into is staffing. He is confident that they are addressing their critical needs at this time.

Mr. Neville asked about the project on Mockingbird Drive and Date Palm. He asked what kind of project was that.

Mr. Mitts said it is flood protection improvement for that street.

Vice Mayor Moss asked Mr. Mitts and the City Manager if they feel that they need to spend more money on stormwater and if so, do they have the staff to do that. She said in other words can their staff address it themselves or are they available to supervise outside contractors. She said if they need to spend extra money they can do it in two (2) ways. They can either raise taxes or create a stormwater utility. The real question is do they need to spend more money on this.

Mr. Falls explained that in the budget process they identify stormwater projects in the funding section and they have some projects that fall below the line in the unfunded section. The answer to that question is if they wanted to do every project in their CPI five-year capital fund they would need additional money to do that. In regards to staff, they are using outside consultants to design and manage the construction projects. They are doing very little design in-house because of the staff reductions that they have experienced.

Vice Mayor Moss asked Mr. Falls if he felt comfortable that staff would be able to supervise outside contractors. She then asked him how much money does he want.

Mr. Falls explained that if having a stormwater utility is something that they want to consider they will talk about it in the upcoming budget hearings and identify some of those exact numbers and move forward and it will happen in the next year's budget.

Vice Mayor Moss suggested that Mr. Falls establish what the additional dollar amount is that he would want to spend on stormwater and then perhaps the Finance Director could calculate what would be involved if they were to raise ad valorem taxes to generate that dollar amount and what would be involved to create a stormwater utility. This way Council would be able to decide which of the two (2) options they would want to exercise to afford them this additional dollar amount.

Mr. Brackett commented that if he heard Mr. Mitts correctly they don't have a dollar amount because they are being mandated by the State concerning the BMAP and nutrient reductions and don't know what it is going to cost to implement that. They need to first see where the gap will be on the unfunded mandates and then go from there.

Ms. Cindy Lawson, Finance Director, commented that the other thing it would entail when you are speaking of raising ad valorem taxes for capital projects would be a major policy shift as well because the City has not paid for capital item projects with ad valorem taxes. She said ad valorem taxes have been used towards the general operating fund. She said not only would they have to raise taxes, but they would have to have a major policy shift to moving ad valorem taxes over to help fund capital projects.

Mayor Young said that his understanding in addressing the EPA changes that are anticipated is that through the utility they have a stream that would provide for the opportunity need for other grants to address those types of things.

Ms. Lawson explained that right now they have no dedicated revenue source for this and all of those capital projects compete for the very limited ones for sales tax dollars with every other needs that there are (police vehicles, recreation facility repairs, etc) and there is only a certain amount of money to go around every year. Their first issue is they have no dedicated revenue source for this and it just goes into a pile and competes with everything else.

Mr. Neville asked Ms. Lawson to explain their funding sources.

Ms. Lawson said the State law part of this is the one-cent sales tax. She said that money cannot be spent on operating costs. However, they could raise ad valorem taxes and take that money and put it into capital projects. They could raise taxes and put it into the capital fund, but that is by custom.

Vice Mayor Moss commented that they haven't had any shortfall in terms of paying for everything that has been approved by the Council for the last several years. She said it has been approved by the Council and her understanding is that the money allocated for stormwater has been spent on stormwater. She said for the community, there was a period of time in 2010-2015 where there was up to a total of one-million dollars that had been

budgeted for stormwater, but was not actually spent on stormwater. She said not to criticize any previous Councils' she knows there were other priorities at that time and the funds were redirected. Since 2016, since she and Mayor Young have been on Council there has not to her knowledge been any redirect of any of the funds that were dedicated for stormwater. They have made progress in that regard and do take it very seriously. She said everyone wants to make sure that the Lagoon is kept in as good of condition as it can be. In referring to ad valorem taxes she knows that sometimes the money is redirected to other places so if they increase taxes by a certain amount they have the potential to redirect it.

Ms. Lawson commented that could be done, it would just be a big policy shift in terms of taking ad valorem money and putting it into capital projects. She said that is acceptable, but you cannot take the one-cent sales tax money and spend it on anything but capital items. She said as far as redirecting those funds that were in the capital fund that did not get spent, that can be a little confusing because that is a five-year plan and sometimes when things don't get done and money is not spent they fall back into the fund balance and get appropriated in another year for the same thing. She expressed the importance of having the staff available to get the projects done. When the stormwater utility was first proposed the Council's direction at the time was that it be only for capital projects and not for operating costs. So that is the way that it was designed, which would generate about a million dollars a year with a cost to each resident of \$5.00 per month.

Mayor Moss asked the City Manager if it would be appropriate to bring back the proposal for the stormwater utility as proposed some years back.

Mr. Falls explained what was done before was a method to generate about a million dollars a year, which translated to \$5.00 per residential unit per month. He said that is what was put on hold. He said as they move into the budget hearings they can provide that to Council. What he heard from the workshop meeting is that Council wanted to be educated as to where they were on the stormwater utility.

Vice Mayor Moss explained that when she was asking for a dollar amount it was how much money can they actually spend with regard to staff and what they can actually do themselves and what projects they are able to supervise. She does not need that number right now, but would like to consider it in the future.

Mr. Graves commented that the way he understands how this utility would work is it would not only allow them to address capital projects, but also accumulate funds for future projects that could be utilized to clean stormwater before it goes into the Lagoon.

Mr. Falls said if they dedicate a funding source whether it be for operating or capital they could spend all the money in the year they receive it or develop a fund balance.

Mr. Graves commented that one (1) of the issues that he hears is that stormwater runoff is dumped into the Lagoon. He feels strongly that something needs to be done in regard to trying to address that issue. He looks at this \$5.00 fee as a user fee. He likes to know that

they will be able to do what is necessary, as well as trying to address the issue of stormwater runoff into the Lagoon.

Mr. Neville said lets say there is a financial downturn, which may happen to them, they will need to deal with tradeoffs, which might be paving a road or repairing a stormwater facility. He said the roads typically win. So they defer maintenance and this is a situation where they ultimately need to start stepping up to the plate with respect to the stormwater support. They have an independent funding source that is not ad valorem related, but it is an actual specific amount that they can plan for and execute, which would be a logical program in order to stay on track. It seems like the reasonable thing to do.

Vice Mayor Moss commented that they should not hang to much on that \$5.00 a month amount because Sebastian doubled theirs to \$10.00 a month.

Mr. Neville noted that after seeing how other cities are handling this, most are paying around \$5.00 or \$6.00 a month to have a stormwater utility.

Mr. Falls explained that it would depend on how much money they want to generate. He said it can be whatever you want it to be or it can be nothing.

Vice Mayor Moss said that is why Council needs a dollar amount from him at a future meeting then they could discuss it in greater detail.

Mr. Neville commented that dollar amount is shown in their budget on the amount that they have deferred on projects until the following year.

Vice Mayor Moss wanted to know how much can be actually done with the staff that is available.

Mr. Mitts commented on staffing and the ability to administer projects and contracts. He said when he started at the City 10 years ago there were four (4) design engineers, two (2) draftsmen, an Assistant City Engineer and a Public Works Director. Within that division they had 16 people and now they are down to four (4) people. There has been a change in culture when they assign some projects to a capital plan. They are adding dollars to those projects to pay consultants to design and oversee the project. They are shifting the burden off of staff in the form of contract labor and services. So now when they put projects into their capital plan that they have the resources to execute them. He said that is a lesson that they are learning and every year they are getting better at it.

Ms. Lawson added that this work not only effects the Public Work's Department, but it also takes time from the Finance Department to implement certain things. She noted that she is also limited on staffing.

Mr. Brackett agreed that they needed to be careful with the approach that they take. There is going to be an unfunded mandate that they have to fund. He said the taxes would have to be enormously increased if they wanted to fund all the projects that they have.

Vice Mayor Moss asked what is the timing for this State mandate.

Mr. Mitts explained how the schedule works and anticipates it will be coming in the near future.

Mayor Young acknowledged that Sebastian has a stormwater utility and wondered if there was a best practice that they could incorporate to be pro-active as opposed to responding to a Tallahassee decree.

Mr. Mitts said that would be a policy decision. They can be as proactive as funding allows. Their current focus right now is flood protection and maintaining their pipes.

Mr. Falls added that Sebastian uses their utility as a dedicated funding source for stormwater. He said when Sebastian receives their Total Maximum Daily Load (TMDL) allocations, just like Vero Beach, they could have additional requirements that they will have to find a way to fund.

Vice Mayor Moss commented that Sebastian doubled their funding for stormwater utility.

Mr. Falls said that Sebastian has taken a pro-active approach in trying to repair some of the canals they inherited from the old General Development Corporation (GDC) project.

Mayor Young wondered if by having a stormwater utility it would put them in a position of not having to have an active mode for a requirement that would be laid on them. He is just trying to understand what the liability would be if they did the model that Sebastian has.

Mr. Falls explained that the Sebastian model is aside from the requirements that the State is going to impose. He said once the TMDL's are adopted it will be something that they will have to adjust to. He said the State will give us a certain amount of time in order to comply and then they can work it into their capital improvement plan. He said that Sebastian had maintenance problems that they needed to fix that they inherited from GDC.

Mr. Neville wondered if it would be worthwhile to ask Sebastian to go over some of the lessons they have learned in going through this process.

Mr. Falls was sure he could get this information.

Vice Mayor Moss commented that once you put this stormwater utility in place then all of sudden you can double it and they don't do that with ad valorem taxes.

Mr. Falls expressed that having a stormwater utility has nothing to do with water quality. It has to do with providing funds for the stormwater function and Council directs staff how they want to allocate those funds to be spent.

Ms. Lawson pointed out that right now they have a zero dedicated funding source. The Council would decide how much they want to generate with the stormwater utility. She said at the end of the day if they end up with a mandate it has to be paid for and it will be paid for in one of two ways. She said foregoing other projects because they have limited resources or by having more resources so other projects don't suffer. She said the amount doesn't have to double if they don't want it to if they are willing to forego other capital projects. If they had a stormwater utility, it would show on the City's books and if they still were not generating enough money from this assessment they could still put other funds into the account in order to do the necessary projects. There are a lot of policy decisions that will have to be made and it will take some time to put this into place.

Mr. Graves suggested discussing this at their budget workshop.

Ms. Jean Catchpole, a representative of the Indian River Neighborhood Association, said that she was a proponent of the stormwater utility. She knows that the State mandate is coming down the pikes. She said that Sebastian needed to double what they were assessing from the residents because there were specific projects that had to be done. She read Mr. Mitt's memo regarding the incentives for having a stormwater utility. She said when planning for new construction projects if they know what amount of money they have coming in it can be easier for them to plan for these projects. She said the most expensive areas will be for parking lots. There are incentives offered to property owners regarding helping the Lagoon that need to be considered.

Mr. Ken Daige said that he does not see anything in the memo where it talks about the non-profit organizations, which he thinks should also be assessed. They should also include commercial properties within the City. He asked if there were a list of projects that the public could see that will be moving forward. He said right now they don't know where the economy is moving in the future. He hoped if they do approve the stormwater utility that they can put some sort of cap on what can be assessed to the residents to help future Councils. He asked Council to discuss these things at their workshop.

At this time, Council took a ten-minute break and reconvened the meeting at 10:43 a.m.

E) Marina Master Plan Presentation

Mr. Falls reported that their Consultant was here today to present the Marina Master Plan. He said that the Marine Commission discussed the Plan and approved it 5-0.

Mr. Tim Fontaine, Coastal Tech of Vero Beach, talked about the draft Municipal Marina Master Plan and gave a Power Point presentation (attached to the original minutes).

Vice Mayor Moss asked that the Marina Director discuss the needed repairs at the Marina separating them from this Plan.

Mr. Shawn Collins, Marina Director, explained that they have been making the needed repairs at the Marina, but they just can't continue throwing money at these repairs. He said that they are at the end of their life span.

Vice Mayor Moss commented that it looks like from the Plan that they are doubling the size of the Marina. She said that it is different than making repairs. She is a boater and has sailed around the Country. There is a Park like feeling area at the Marina and they are about to turn that Park into a parking lot. This would be so packed with boats. Especially in that little Lagoon. They are going to go from 13 slips to 44 slips.

Mr. Collins explained that the Army Corp of Engineers will look at the maximum number of boats. He said that this is a conceptual plan. They want to reach for the stars. He said realistically they know that they are not going to pack that area with 44 boats. He knows that number will come down.

Vice Mayor Moss asked Mr. Collins what is his guess realistically what that number would be.

Mr. Collins said between 30 and 35 boats.

Vice Mayor Moss said even that is three (3) times the amount as what they have now.

Mr. Collins expressed that there is a lot of real estate that the City owns that has been under utilized at the Marina for years.

Mr. Neville commented that the thing about boaters is they love having boats, but they don't necessarily use them all that much. He does not see this as a gigantic traffic issue and is easily manageable.

Vice Mayor Moss commented that this area doesn't get flushed out much so whatever ends up there sort of just sits there. There may not be any seagrass in that exact spot and if you look at the map that they have in their Comprehensive Plan (Technical Document) the entire area is very environmentally sensitive and seagrass is very much a part of that. To encourage twice as many boats to be in an area that doesn't get flushed out and is surrounded by environmentally sensitive plant life is highly questionable.

Mr. Neville commented that if they do proceed with the construction of the new docks every one (1) of the dock spaces will have a direct connection to the pump out system. There is so much less likelihood of any kind of spillage that even with triple amount of boats there they would be far better off than they are now.

Vice Mayor Moss asked why do they want to pack these boats in.

Mr. Falls said they don't. He explained that they asked the consultants to show them how many boats that they could get in there in a reasonable space that would be the maximum permanently. He said what the consultant came back with is they did push it to the

maximum. He said the permit is good for 10 years and if they want to go more than that then they would have to go back through the whole permitting process again. If they want to go less than that number then they won't have to go through the whole permitting process. He said this is Council's plan and they can decide if they want to have one (1) boat over there or the number that is proposed. He said that staff needs to know if they should permit for the maximum amount of boats that have been shown or pull that back. He said that would be a policy decision.

Vice Mayor Moss did not think that they should permit for the maximum amount. She said they just got through with talking about stormwater and keeping the Lagoon clean and now they are going to double the amount of boats that is in this tiny area that is environmentally sensitive.

Mr. Brackett said boats are not bad.

Vice Mayor Moss said that she loves boats.

Mr. Brackett commented that the problem is the individual boat owners and not the boats. They need to provide facilities to people so they can take care of their boats. It is the individuals that make poor decisions that are bad. He is not saying that the Marina will grow to this size. He doesn't see that happening, but they have an obligation to plan for the future. There are boaters in the area that are citizens that come to Vero Beach and enjoy the water, pay taxes and enjoy the Marina. He does not agree with dumping good money after bad in reference to the repairs. He asked if there was a way to completely rebuild what is existing and then add more to the side. He asked if that cost has been examined.

Mr. Collins commented that strategically that is part of the problem. The facility is so old that rebuilding existing docks is not feasible.

Mr. Neville asked if they were considering floating docks. Mr. Collins answered yes. Mr. Neville asked if they are floating docks then they are modular. Mr. Collins answered yes. Mr. Neville said so once they start the permitting process they have 10 years, if needed, to modular out to the maximum distance. It is easy enough to set the pilings, assemble the grid work and the wiring and the plumbing. Mr. Collins said that is the plan. Mr. Neville asked Mr. Collins how many large boats and catamarans does he turn away because there is no space for them. Mr. Collins said with catamarans at least once a week. He said that he also has turned away several of the large boats.

Mayor Young commented that one thing that might be helpful is too look at prioritization of the regeneration of the Marina. He asked Mr. Collins if there is a phasing process being looked at for this work.

Mr. Collins said yes. He explained that the permitting process is long and intense so that is why they are trying to get this work done in this particular time frame in order for that permit to work. He said there are really two (2) major phases.

Vice Mayor Moss asked if they have factored in the boat docks that will be at the Three Corner area as proposed by DPZ.

Mr. Collins said that they did not want to compete with themselves and have two (2) rental facilities in town.

Mr. Falls explained that the docks proposed for the Three Corners site are like parking spaces. Someone will pull their boat up, go to the restaurant facility, and then leave.

Mr. Graves commented that when he hears the facilities are at the end of their useful life that says to him that they need to get going on this and stop spending money on repairs that could otherwise be utilized towards new dockage, which makes sense. This is a conceptual plan for the future. He said that their City is changing. There is more traffic and there will be more people coming to this area with boats. He felt that this was a great plan.

Mr. Brackett asked if mooring balls would be removed. Mr. Collins said no. The only mooring balls that will get removed is if the southern shoreline project gets going sooner rather than later. He said right now there are a lot of people on mooring balls because they cannot accommodate them at the dock.

Mr. Graves had a question about their ability to enforce boats that are not docking at the mooring balls. He said the plan is good because it gives them better pump out facilities. He asked what about the boats that are not in the Marina, they are outside the mooring field and not utilizing the Marina's pump out services.

Mr. Collins said that is another reason why they want to expand the moorings field so the areas where they have increased would have the most depth to accommodate them without interference and allow them to manage that area.

Mr. Ben Trautman, Chairman of the Marine Commission, commented that the boating population has grown, which they either have to plan for the increase in population or try to maintain what they have. This is a vision plan and he thinks it is a correct vision plan and the Marine Commission has recommended that the plan is a good vision as to where the City should be going. He said that boats are getting bigger and the 20-foot boat is not the average boat anymore and the larger boats are being turned away at the Marina. He encouraged the Council to consider this plan.

Ms. Lawson commented that last year when they sold the Electric Utility what they did with some of the proceeds is pay off the existing debt at the Marina. So now there is a fund balance at the Marina and there will be approximately \$300,000 available every year for these capital improvements. She said it has been talked about if they are going to do this in a phase process and there may be grants to help cover some of the costs then they pick the first project and go for the grants and see how much money is left to be funded by the City. She did tell the Marine Commission that they need to be building a fund balance for the Marina where they can handle any financial downturn like the last one that they had that put them in a hard place. She said as a lot of capital improvements are being added to

the Marina they also need to look at the depreciation expense and an R&R Fund needs to be established.

Mr. Neville commented that there are two (2) names before the Governor right now, which have been before the Governor for several months. He said that Indian River County does not have a Representative on Florida Inland Navigation District (FIND) and has not had one for some time now. They are losing opportunities to benefit this community every day that they don't have a member on that Committee. He felt that they needed to put some pressure on getting these nominations handled.

Vice Mayor Moss asked the City Clerk to follow up on this.

Mr. Falls added that the County has not asked for any of the FIND grants and the deadline was Friday. He said that the City did not miss the deadline. They worked with the Consultant and their grant person on their team and sent a letter to FIND to make sure that they got their foot in the door for the grant cycle for next year. They have to make the final submittal for the grant by March 27th and are working with the Consultant under his purchasing authority to engage in a project specific just for this one (1) grant so they did not miss the window.

Mr. Brackett assumed as they move forward there will be a plan in place with what they do with the existing boats, such as when they start tearing the north dock down to build a new north dock.

Mr. Collins explained that at some point some of those facilities are just going to have to shut down.

Vice Mayor Moss asked how they were doing with boat discharge requirements.

Mr. Collins said that they were doing great. He said the enforcement comes from outside agencies, but their policy at the Marina is that every boat that comes into a mooring gets pumped out and they have not missed one.

Vice Mayor Moss asked about the derelict vessels and how is that going.

Mr. Collins recalled that Mr. Drewett, Marine Commission member, gave an update on derelict vessels at their last Marine Commission meeting. He reported that there is a new Lieutenant for the Marine Division at the Sherriff's office and they are very close to getting these derelict boats removed.

Mr. Falls told Council if they have any comments that they would like to incorporate into the Plan they can do that. Once the changes have been made he will bring back a final document to Council. He said what they are looking for is a Master Plan for the Marina. They are not approving any projects or any number of boats that will be allowed at the Marina. Those are things that will be brought to Council as the projects come up. He asked Council if they approve the concept is there a number of boats that they don't feel

comfortable having there or a maximum number that they do feel comfortable with. This information is needed for the permitting process.

Ms. Lawson commented that as they proceed there are a couple of time sensitive things that need to be addressed. The seagrass survey needs to be done this summer in order to make them eligible for the grant.

Mr. Fontaine explained the biggest constraint is the seagrass survey needs to be performed when the grass is growing, which would be in the summer time. The FIND grant is not announced until around September and the seagrass survey would need to be performed prior to that being awarded. His understanding is no one else applied for the grant in Indian River County as of the day it was due. There is about \$450,000 available at a 50% match. The quickest path forward is to get the seagrass survey done this summer season. A question was asked about the water depth and Mr. Fontaine said that is not time sensitive and can be done anytime.

Vice Mayor Moss wanted to bring this back when they have engineered how to have public comment since they do not have much public comment at this meeting. She knows that by their next Council meeting people will be able to make their comments electronically. She suggested bringing the matter back to their next meeting.

Mr. Brackett suggested moving forward with the seagrass survey so they don't miss that opportunity. He said that he likes the Plan. He knows there will be some fine tuning financially, but they need to keep working on the process. They approved the Master Plan months ago and hired Mr. Collins as the Marina Director. He said that they can't hire someone and bring them in and then tie their hands. The community has been very vocal in regards to wanting to see the Marina refurbished.

Mr. Graves understood the rationale of getting a permit for the maximum number of boats so that they do not have to start the permitting process again. It makes sense to go ahead and approve the permitting for the maximum number of boats and then future Councils' can decide what they want to fund in the future.

Mr. Neville stated that he was in favor of this conceptual plan. Then from that they will develop specific projects and then go forward to the public for their comments. He said this is a way to guide themselves in the future and he reiterated that there is nothing wrong with this Plan as it currently exists.

Vice Mayor Moss suggested getting a consensus of Council since they are not able to have public comments taken as fully as they would like to have.

Mr. Brackett made a motion to approve the Marina Master Plan and move forward with getting the grass survey done. Mr. Graves seconded the motion.

Mr. Ken Daige commented that this sounds like something they need to get moving on. He asked when are they actually going to do something. This is an Enterprise Fund that does not do a transfer to the General Fund. The other question that comes up is the concerns

that the public has with the health of the Lagoon. He expressed that the City Marina is an asset to this community. Again, he asked how long would it be before they actually start doing something.

Mr. Falls explained that the permitting process takes up to 18 months and it looks like they will be coming up with a phasing plan.

Mr. Daige has heard that the Marina is in pretty good shape and a new Marina Director was hired to help take care of things over at the Marina. He said that the money needs to be discussed at budget time to have the next phase moving forward. He hoped that they would start the first phase on something that really needs to be done where they are not wasting money.

Mayor Young felt that Mr. Falls has been given that recommendation in regards to the Marina as far as how to maintain the standards that they want.

The Clerk polled the Council on the motion with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss no. Vice Mayor Moss explained her reason for voting no. She was concerned that they don't have the ability to have sufficient public comment. She does agree with going ahead with the seagrass study and understands with the permitting process that they want to reach for the stars and this is an efficient way to do it. Mayor Young voted yes on the motion and it passed 4-1.

10. CITY ATTORNEY MATTERS

Mr. Turner referred to the presentation given earlier regarding e-cigarettes and tobacco retail licensing. He said that there is an Ordinance in place that addresses e-cigarette sales and there is a procedure available for issuance of Code violations for those establishments found in violation of the prohibition. He said that is covered in their Ordinance. He will notify Code Enforcement that they need to be on the lookout for this.

Mr. Neville commented that he also met with the people that attended their meeting today and had a very nice visit with them. He said the thing about enforcing the Code is nothing happens except you pay a fine. That is why they are anxious to have a license. Then if their license is revoked then they may no longer sell those products. He feels that would get the attention of the store owner, which is what they are trying to accomplish.

Mr. Brackett said if a store gets caught selling cigarettes to minors it is a State law and they can lose their license.

Mr. Turner stated that he would rather address this through Code Enforcement proceedings. He said there are repeat fines of up to \$500 a day that can be imposed. He said there may be Code Enforcement available through County court. He will bring back additional information to the Council.

Mr. Turner brought up Elite Airways and the two (2) agreements that the City has with them. One (1) is a use agreement for a permit for Elite to use the facility at the Airport for their transport business and the other is a lease agreement for the use of office space. He said both of those agreements are in default. The City Manager has sent notices to Elite Airways concerning the default and directions on how to cure those defaults under both agreements. The use agreement default is for an approximate amount of \$28,000. He said that Elite Airways has not paid any money on the obligation that they agreed to when they entered into a new agreement with the City. The agreement was executed on January 6, 2020. Under that agreement they are given 15 days to cure it and a notice was sent and received by Elite Airways on March 6. So that extends their time to cure until March 21st and after that date if they have not cured by payment their privilege to operate at the Airport should be terminated if that is the direction and will of the Council. He said that Elite Airways sent an email request to the Airport Director asking for an additional 30 days because of the economic conditions that they are experiencing. If Council agreed to do that then the extension date would fall on April 20th. On the second agreement, which is for the office space that they are leasing at the Airport, is also in default and Elite Airways has been given a three (3) day notice to cure that under the lease and the amount owed is approximately \$4,000. If it is the direction of Council he will start an eviction proceeding if Elite Airways does not voluntarily vacate that office space.

Mr. Neville asked what were the original due dates before the cure notice was sent.

Mr. Turner explained under the contract Elite Airways is to pay the initial fee annually and due when the agreement is executed. He said Elite Airways has received a past due bill for the last two (2) months. They have been contacted and advised as to what the City was doing and they have not responded affirmably as to what their intent is. He knows that there was a plane that landed yesterday and passengers got off the plane. The reason for requesting a 30-day extension was partially because of the schedule that was published on their website through January 1, 2021. He then read into the record the email that was received.

Mr. Brackett asked what days does Elite Airways fly out of Vero Beach.

Mr. Todd Scher, Assistant Airport Director, reported that the planes fly to Newark and back on Mondays and Fridays. He said that next month there will be additional flights added for Newark. He said yesterday there was a low number of people flying out, but about 40 people coming back in a plane that only holds 60 people.

Mayor Young asked if there were any inspections being done now because of the CoronaVirus.

Mr. Falls said he could not answer that question.

Mr. Scher said that he could not answer that either. He knows that there has been a lot of press regarding major airlines, but he cannot speak to Elite Airways.

Mr. Graves asked if there is a plane that Elite Airways leases from Midwest Express that is sitting at their Airport and involves a lawsuit.

Mr. Scher said that there was at least one (1) airplane with Midwest Express titles on it and there was a lot of publicity that Elite Airways had reached an agreement to operate airplanes for Midwest Express, but it never happened. He has seen press releases saying that Midwest Express is suing Elite Airways, but he doesn't have any knowledge other than that. There is an airplane on the ramp right now that says Elite/Midwest, but is hard to read the fine print.

Mr. Graves heard that the plane landed and the pilots walked off and went home.

Mayor Young asked Mr. Scher if the office space was essential for the Elite Airways operation.

Mr. Scher said that he doesn't know if they need it, but they do use it for technical support for their maintenance people.

Mr. Turner heard that there was some indication that they were going to abandon it.

Mr. Graves wondered if they need to wait for the March 21st date to terminate this agreement or could they do it now.

Mr. Turner stated that it depends on how they want to approach this. If Council wanted to give Elite Airways the 60 days they could that. Or if they wanted to pull the trigger now they also have that option.

Mr. Graves asked Mr. Turner if Elite Airways goes past March 21st without any payment would they still be allowed to land their airplanes at the Airport.

Mr. Turner said they would be in actual breach of the lease use agreement and the Airport staff would instruct them to remove all their equipment.

Mr. Graves commented that on January 9th they entered into a new lease agreement with Elite Airways and no payment has been made. These are some of the things brought up by the Airport Commission that they had concerns with. He said like Elite Airways being a bad tenant and a bad partner. He said after signing this new agreement not one dollar has been paid. In his view it is time to terminate the agreement because Elite Airways has proven to be an unreliable partner. It is not the City's obligation to fund Elite Airways operation and incur debt because they want to operate here and not pay their fair share.

Mr. Brackett commented that when the Airport Commission voted not to renew Elite Airways' contract the CEO of Elite Airways ripped the Airport Commission on what their decision was. He (CEO) said that he was blindsided. Mr. Brackett did not believe that from what he has heard. He knew what was going on. Mr. Brackett said that this Council and other folks went to bat in working with State Representatives and Senators to try to

salvage this situation and they did salvage it for a three (3) year period with FDOT. For Elite Airways not to pay the City is a slap in the face. It simply says that they are not being good partners right now. They are trying to take advantage of the City because they think that the City needs them. He said when he heard about Elite Airways not paying them their rent it was so disappointing especially after what this Council, City staff, State Representatives, Senators, etc., did to help salvage this agreement. He reiterated what a slap in the face this is.

Vice Mayor Moss agreed that this Council did work very hard to make the conditions as favorable as they possibly could be. She said she was chagrined to see it come to this point.

Mayor Young asked if they terminate the agreement what recourse would Elite Airways have.

Mr. Brackett said it sounds to him like they just let the situation roll and if Elite Airways does not pay them by March 21st then they are done.

Mr. Turner said that he will proceed with evicting Elite Airways from their office space if they do not vacate voluntarily.

Mr. Graves felt like they did a lot to try to make this work and here they are not having one (1) dime paid pursuant to this new agreement. It is beyond repair.

Mr. Neville said the only thing that bothers him is that there may be people who are holding airline tickets to get back home and this could put them at a real disadvantage. He said that the public needs to know about this so they can make their final flight arrangements.

Mr. Graves said that ultimately that would be the 60-day window.

Mr. Brackett was fine with the 60-day notice. He doesn't want to injure their residents.

Mr. Turner will work on giving Elite Airways a 60-day notice and proceed with the eviction process for the use of the office space.

Mr. Brackett made a motion to exercise the 60-day clause in the use agreement that was dated January 6, 2020, whether they (Elite Airways) pay or not. Mr. Graves seconded the motion.

Mr. Ken Daige commented that the City Council worked hard discussing this situation and heard from the community who wanted the airline to remain in Vero Beach. The comments he heard from other people was that the airline people were not thankful for their help and other tenants at the Airport have to pay their rent. He asked what do they do as a City to make sure that they get the payment owed to them.

Mr. Turner said that he would file an action under the contract to collect the amount due. There would be some type of judgement.

Mr. Daige asked if this was standard procedure from his office.

Mr. Turner explained he would need to get direction from the City Council.

Mr. Graves said sometimes it makes sense and sometimes it does not.

Mr. Daige said that there are other tenants at the Airport and everyone would expect them to follow all the rules put in place.

Mr. Neville was not for forgiving the debt.

Mr. Graves did not want to spend good money after bad.

The motion passed 5-0 with every Councilmember voting in favor of it.

Mr. Turner requested an Executive Session to be held to discuss the case dealing with John Doe and the City of Vero Beach. He would like to have the City Council meet with their outside counsel to discuss settlement strategy. He asked that the Executive Session be held on Monday, March 23rd at 10:00 a.m. The meeting will take approximately 45 minutes and will be open to the public at 10:00 a.m. and closed while the session takes place and then reopened.

11. COUNCILMEMBER MATTERS

A. Mayor Young's Matters

Mayor Young reported that March 29th was National Vietnam Veterans Day. He also reminded the community that they would all make it through this virus situation just like they do during a hurricane. He is not opposed to prayer and utilizing it.

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

B. Vice Mayor Moss's Matters

Vice Mayor Moss strongly urged the community to support their local businesses to the extent that they can. She said that there were a large number of restaurants that have take out services and take out menus. She thanked the Paige family for holding their 35th annual Beast Feast. The money raised from this fundraiser goes to the Epilepsy Foundation. She wished everyone a Happy St. Patrick's Day.

- 1) Vero Beach Museum of Art Program for Veterans. Five-week begins 03/19. Free of charge. Details attached.**
- 2) "Hear My Voice" performance celebrating 100th Anniversary of women's suffrage on Monday, 03/30.**

3) “Blue Ribbon Luncheon” 04/02 to benefit Hibiscus Children’s Center. Visit hibiscuschildrenscenter.org for details.

These different events were cancelled because of the COVID-19 pandemic.

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

1) Kyleigh Savore and Pedro Bernabe to Discuss E-cigarettes and Tobacco Retail Licensing. Addressing regulation gaps for tobacco at the local level.

*Please Note: This item was heard earlier in the meeting.

Miss Kyleigh Savore was at today’s meeting to educate the Council and the public on the tobacco retail license. She provided Council with information on this (on file in the City Clerk’s office).

Mr. Pedro Bernabe was also at today’s meeting and a member of Tobacco Free Indian River County. He said that he is a former SWAT member. He does not smoke. He mentioned that over 90% of people are struggling with addictions and started smoking by the age of 12. They are getting these devices (e-cigarettes) from local retailers. There are long-term effects from people using nicotine.

Mayor Young asked who has the authority to license e-cigarettes.

Mr. Turner explained that it was a State law, but he would look into this and see if there were some approaches that they could use.

Miss Savore said that there is no State preemption in adopting tobacco retail licensing. She said there is one (1) County that has passed an Ordinance and that is the County of Alachua.

2) Dr. Miles Conway to give a presentation on South Beach Annexation

Dr. Miles Conway talked about South Beach annexing into the City. He passed out a copy of information that he spoke on (attached to the original minutes). He said if the City Manager is serious about this annexation he will undertake the work needed to get it started. He is very disappointed in this Council because they did not go to Tallahassee to join in the fight in defeating the preemption of short-term rentals. He said that he never saw any of them in Tallahassee. There were colleagues from other cities doing lobbying and never did he see someone from this Council there. He felt that was very disrespectful. He said that they won’t get annexation passed in South Beach unless the short-term rental situation is dealt with, which will probably come up again in Tallahassee next year.

Mr. Dominick Compansano (spelling may not be correct), a 22 year old resident of Vero Beach, asked what is the City of Vero Beach doing about the virus.

Mayor Young referred to the CoronaVirus update that was given at the beginning of today's meeting.

Mr. Compansano felt that they needed to shut down Elite Airways from flying in and out of Vero Beach. He said the people coming back and forth could be contaminated. He expressed that this virus is very bad. He said it is spreading through the air and they need to have clean air. The mosquito control could fly their planes at night spraying a bleach chemical that would clean the air. He said that this City needs to be shut down and not allow anyone else come into the City. He said this is not a joke. They need to spray the town starting tonight.

C. Councilmember Brackett's Matters

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

D. Councilmember Joe Graves's Matters

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

Mr. Graves appreciated Dr. Conway coming to their meeting today and giving this presentation. He would be interested in talking to him further about this and getting up to Tallahassee and helping their citizens on this rental issue.

Mr. Graves publically affirmed his support for the City Manager. They are very lucky in the City to have someone like Mr. Falls as their City Manager. He knows that Mr. Falls is more than equipped to handle staff matters. When it interfaces with Council in his view and becomes a financial issue there needs to be transparency with the public and he appreciates the presentation that was provided today. He understands that Mr. Falls has not been on this job very long and there were a lot of pots on the fire when he took this job. He applauded Mr. Falls and the Finance Director for catching this (referring to the change order discussed earlier). His deep concern is that they rely on the staff members that come before them with the information they provide to them to make serious votes about large sums of money and they want to make sure that they are good stewards of the money and don't want to make a bad decision and making a good decision depends on the quality of information that they are provided with. He knows that everyone on Council believes the same thing. They all want to do the best that they can when it comes to taxpayer's dollars. He didn't go after Mr. Falls because he knows this is not his issue. He knows that Mr. Falls saw something and he rectified it and brought it to Council. He didn't want anyone to go away thinking that he had any lack of confidence in the City Manager. He expressed how lucky they were to have Mr. Falls. He said all his interactions with him have been very positive and very informative and working with someone that knows their job very well.

E. Councilmember Rey Neville's Matters

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

13. ADJOURNMENT

Today's meeting adjourned at 12:48 p.m.

/tb