

CITY OF VERO BEACH, FLORIDA
APRIL 5, 2023 1:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

Minister Tracy Moore of Vero Beach Church of Christ gave the invocation.

PRESENT: John Cotugno, Mayor; Linda Moore, Vice Mayor; Tracey Zudans, Councilmember; John Carroll, Councilmember and Rey Neville, Councilmember **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

1. CALL TO ORDER

A. Pledge of Allegiance

Mayor Cotugno led the Council and the audience in the Pledge of Allegiance to the flag.

B. Roll Call

The City Clerk performed the roll call.

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – March 21, 2023

A. Agenda Additions, Deletions, and Adoption.

Mrs. Tammy Bursick, City Clerk, requested that item 6A-1) “Incentives for STEP System Connections” be removed from today’s agenda. She said it will be heard at the April 18, 2023 City Council meeting.

Mr. Carroll requested that item 3-C) be pulled off of the consent agenda.

Mr. Monte Falls, City Manager, requested that item 9-A) Update on Brightline; item 9-B) Boat Ramp Repair Project and item 9-C) Update on Bahia Mar be added to the agenda and discussed under City Manager’s Matters.

Vice Mayor Moore made a motion to approve the agenda as amended. Mr. Neville seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

- 1) **National Animal Control Officer Appreciation Week – April 9 – April 15, 2023**

Mrs. Zudans read and presented the Proclamation.

- 2) **National Telecommunicators' Week – April 9 – April 15, 2023**

Mr. Carroll read and presented the Proclamation.

- 3) **Moonshot Moment**

Mr. Neville read and presented the Proclamation.

3. **CONSENT AGENDA (include amount of expense)**

- A) **Consent to Mortgage to Leasehold Interest for Corporate Air, Inc.**
- B) **Contraband Forfeiture Fund Purchase**

Vice Mayor Moore made a motion to approve the consent agenda with item 3-C) pulled off. Mrs. Zudans seconded the motion and it passed unanimously.

- C) **Production Well Rehabilitation (Contract 73-2020) Wells 17, 31, C-2, 10, 26, and 5 Final Acceptance and Payment – A.C. Schultes of Florida, Inc. Expenditure (\$19,564.24)**

Mr. Carroll pulled item 3-C) off of the consent agenda and requested that Council approve the current payment subject to the new change order.

Mr. Falls agreed that there needed to be a final close out order. He said this would not change any of the numbers in front of them today. He will bring back a final change order. Today he is asking that \$19,564.24 be paid to A.C. Schultes of Florida.

Mr. Neville made a motion to authorize the final payment to A.C. Schultes of Florida, Inc. for \$19,564.24. Vice Mayor Moore seconded the motion and it passed unanimously.

4. **PUBLIC HEARINGS**

- A) **ORDINANCES**
- B) **RESOLUTIONS**

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

6. **CITY COUNCIL MATTERS**

A) NEW BUSINESS

1) Incentives for STEP System Connections

This item was removed from today's agenda and will be heard at the April 18, 2023, City Council meeting.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing to be held on April 18, 2023 at 4:00 p.m.

- A) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Restructuring and Amending Chapter 72 to revise Chapter Heading to be entitled Environmental Protection Standards; Amending Article I, in General, Relating to New or Revised Definitions; Amending Article II, Landscaping, to Update the Landscaping Ordinance with Revised Site Landscape Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on April 18, 2023 at 4:00 p.m.

Public Hearing to be held on April 18, 2023 at 4:00 p.m.

- B) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 72, Article I, in General, relating to New or Revised Definitions; Deleting Chapter 72, Article III Related to Tree Classifications; Creating a New Chapter 72, Article III Related to Tree and Palm Protections with Revised Tree Preservation Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on April 18, 2023 at 4:00 p.m.

Public Hearing to be held on April 18, 2023 at 4:00 p.m.

- C) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Creating a New Chapter 72, Article IV, Lagoon and Beach Protection with Development Standards to Protect the Indian River Lagoon and Beach Dunes; Amending Chapter 72, Article I, in General to Add Definitions; Amending Chapter 64, Article I, Development Review; Deleting Chapter 74, Bulkheads and Waterways; Providing for Codification; Providing for Correction of Scrivener's Error;**

Providing for Conflict and Severability; and Providing for an Effective Date.

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on April 18, 2023 at 4:00 p.m.

- Public Hearing to be held on April 18, 2023 at 4:00 p.m.**
- D) An Ordinance of the City of Vero Beach, Florida, Instituting a Moratorium on the Acceptance of Applications and Processing of Applications for Code Compliance Certification or Site Plan Approval for Development or Change of Uses inconsistent with the Proposed Ordinance to Revise the List of Permitted Uses within the C-1A, C-1B, B-1, and C-1 Commercial Zoning Districts for 180 Days to allow time for Formulation and Adoption of an Ordinance with revised list of Permitted Uses in the City's Commercial Districts; Providing for Exemptions; Setting Forth an Effective Date; and Providing for Hearing Process for Vested Rights Claims.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on April 18, 2023 at 4:00 p.m.

Mr. Carroll stated that he was at the Planning and Zoning Board meeting when this item was discussed. He said that he was surprised when he saw it and taken back a little. He asked Council to make sure that they take their time in reviewing the Ordinance to make sure that they understand what is being eliminated. He has been told by the Planning Director that there were no pending projects that would be effected by this moratorium.

Mrs. Zudans agreed with the Mr. Carroll's comments. She said that she owns a piece of property in a different city where there is a moratorium in place and she is contemplating not moving forward with her plans because of the moratorium that is in place.

- Public Hearing to be held on April 18, 2023 at 4:00 p.m.**
- E) An Ordinance of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designation from ALI-1, Airport Light Industrial-1 to ALI-A1, Airport Light Industrial-A-1 District, for the property located South of Pro Flite Drive, East of Airport Drive and West of Piper Drive, containing 7.16 acres more or less; Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on April 18, 2023 at 4:00 p.m.

8. CITY CLERK MATTERS

- A) Reappointment to the Police Pension Board**

Mr. Gregory Budde's term on the Police Pension Board expires on April 1, 2023 and he would like to be reappointed.

Vice Mayor Moore made a motion to reappoint Mr. Gregory Budde to the Police Pension Board. Mrs. Zudans seconded the motion and it passed unanimously.

B) Lien Reduction Request – 58 Royal Palm Pointe – What-A-Tavern Deli

Mr. David Currey, Chief of Police, explained that this is a lien reduction request for Royal Palm Pointe Partners. The violator is Dayton Dandies Inc/What-A-Tavern/Robert Kost. The request is to reduce the current lien of \$11,450.00 to \$0.00 for the assessed property at 58 Royal Palm Pointe. The request does not include potential recording and attorney fees. What-A-Tavern was cited in violation of the Code for putting new gravel on the west side of the building, which requires approval from the Planning Department. A code enforcement warning citation was issued on March 4, 2022, with a correction required date of March 18, 2022. Representative Mr. John DelRusso submitted a Code Compliance Certification (\$110.00) on March 18, 2022 to the Planning Department. The proposed work was to remove the mulch in the outdoor area on the west side of the building and install river rock. A \$50.00 code enforcement citation was issued on March 21, 2022 in violation of the Code because there was new gravel on the west side of the building which requires approval from the Planning Department. On June 28, 2022 the Code Enforcement Officer produced an affidavit of non-compliance in the matter of 58 Royal Palm Pointe. It went before the Code Enforcement Board on July 13, 2022. The civil penalty has been paid, but the violation had not been corrected. An order finding violation allowing additional time (90 Days) for compliance (October 11, 2022) to pay costs of enforcement, and assessing continuing penalties was issued. A decision was made by Royal Palm Pointe Partners to remove the gravel and become compliant by reinstalling sod. Sod was installed on October 3, 2022. However, Royal Palm Pointe Partners did not contact the Code Enforcement Officer to have the site inspected for compliance. The case went before the Code Enforcement Board on January 11, 2023 and an order finding violation and correction; ceasing continuing penalties and to pay the accrued continuing civil penalties and costs was issued. The property was found to be in compliance on November 19, 2022. Continuing penalties of \$11,450.00 together with all the costs of recording Board's order were imposed. The initial civil penalty of \$50.00 has been paid and the costs of enforcement in the amount of \$42.42 has been paid; however there are additional costs of \$112.57. His recommendation would be that the total to release the lien would be \$243.07, which will cover all of the recording costs.

Mr. Neville made a motion to approve the recommended total release of lien be paid in the amount of \$243.07 as proposed by Chief Currey in order to settle this issue. Mrs. Zudans seconded the motion and it passed unanimously.

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

A) Update on Brightlines

Mr. Falls reported that the railroad crossings at 26th Street, 17th Avenue, and 23rd Street should all reopen on Friday, April 21st by 7:00 p.m. He said that Brightline will be starting some high speed testing today, Saturday and Sunday.

B) Boat Ramp Repair Project

Mr. Falls reported that the floating docks at the Memorial Island Boat Ramp at Riverside Park were destroyed by Hurricane Nichole in November of 2022 and have been closed down until they can be repaired. The City has received a lot of complaints concerning the boat ramp being closed and now has decided to open the boat ramp without docks effective April 5, 2023. He said that boaters may launch their boats at their own risk and are advised the boat ramps may be slippery. He has reached out to see if Indian River County will open a boat ramp and he has not received an answer back yet.

Vice Mayor Moore commented that she spoke to someone who has been using the MacWilliam Park boat ramp and having a hard time finding a place to park because of people visiting the Dog Park. She asked if some sort of signage could be put up.

Mr. Falls briefly explained the problems they sometimes run into when putting signs up.

Mrs. Zudans commented with everything that goes on in that area she did not think putting signs up would help. She said they would need to be very specific.

Mr. Falls commented that the situation is only going to get worse with all the new people moving into the area and wanting to have access to the water. He said that they need a boat ramp on the mainland.

Mayor Cotugno agreed that they needed to be looking at this area because there will be a bigger problem with parking now that the baseball field is reopening.

Mr. Falls said that he would speak to the Police Chief about this and the issuance of parking tickets.

Mrs. Zudans hoped that people would not start getting tickets. She felt having the police presence drive by might help with any safety issues that could occur.

C) Bahia Mar

Mr. Falls reported that the beach access at Bahia Mar is now open. He said that once they receive the last piece of railing they are waiting for they will be able to open the access at Humiston.

Mayor Cotugno asked for an update on Seaside Grill.

Mr. Falls reported that he spoke to Mr. Phil Matson, Indian River County Community Development Director, who was able to get the contractor and the lessee of the building to talk to the Building Department concerning the issues they are having.

10. CITY ATTORNEY MATTERS

Mr. John Turner, City Attorney, thanked Council for attending the court hearing yesterday that was held at the 4th District Court regarding Indian River Shores versus the City of Vero Beach. He was impressed with their outside attorney and felt that the presiding judge was also. Their outside attorney had a lot of material to cover in 15 minutes and she did it well.

11. COUNCILMEMBER MATTERS

A. Mayor Cotugno's Matters

Mayor Cotugno thanked everyone who participated in the annual Easter Egg Hunt at Mulligans. He said this morning he attended the ground breaking ceremony for the new Customs Facility located next to Corporate Air at the Airport. He told Council that the next couple of months will be very busy and that there are two (2) workshop meetings that have been scheduled on top of their two (2) regular City Council meetings. They will be tackling some subjects that are long overdue. He said they will be talking about the Downtown Master Plan, Affordable Housing and Pocahontas Park. He hopes that they have communication from the community to help with moving their City to the next step. He thanked Council for making the time to attend these meetings.

B. Vice Mayor Moore's Matters

Vice Mayor Moore showed a sign available to the public to put in their lawn that says "This Home is Fertilizer Free for Manatees." She said the signs are free or you can give a donation to Save the Manatees to help cover the costs. She plans to put the signs in her neighborhood as well as her business. By having the signs visible they are encouraging everyone to have a fertilizer free lawn and to keep chemicals out of the Lagoon. The website to find out more information about the signs is savethemanatee.org.

C. Councilmember Zudans's Matters

Mrs. Zudans invited everyone to attend the Vero Beach Municipal Marina Open House on Saturday, May 20th from 11:30 a.m. to 1:30 p.m. She also wished everyone a Happy Easter.

D. Councilmember Carroll's Matters

1) Request City Attorney to opine on TESTA Decision

Mr. Carroll reported that he was attending a Treasure Coast Regional Planning Council meeting where the Fourth District Court of Appeal case concerning Michael David Testa

versus the Town of Jupiter Island came up and he just wanted to make everyone aware of it.

Mr. Turner commented that this involved a lawsuit that determined that continuing or postponing an advertised public hearing for the adoption of an ordinance to a future date and time certain does not comply with statutory advertising requirements for ordinance adoption. He said while this doesn't affect the City of Vero Beach it has effected other cities and continues to be a surprise to a lot of people in the land use business. There is a Bill being introduced to help cities out and make this retroactive. He said that the City of Vero Beach will always continue to re-advertise the notice if a public hearing is postponed or tabled for some reason.

2) Florida Bicycle Month March 2023

Mr. Carroll commented that the Treasure Coast Regional Planning Council recently passed Florida Bicycle Month. He expressed the importance of this City addressing bicycle safety and pedestrian safety. He has a pickup truck where he puts his bike in the back of his truck and rides his bike in different areas and said it can be dangerous at times. He will bring this back up in the near future.

3) Reconsider Workshop on Downtown Master Plan

Mr. Carroll commented that he was not opposed to having a workshop, but wanted to make sure that it was productive. At their January 26, 2023, workshop they spent time together talking about downtown and that the Planning Director would be hiring a consultant and until that person is on board he felt that the Council talking about it at a workshop seems fruitless.

Mr. Neville wondered what the set of principles were before entering into a contract with a consultant. Like including safe driving in downtown Vero Beach. He said they should identify those things and have them solved and that would be part of the contract or the scope of the contract. That would make it so much easier and successful for a contractor to know what they are trying to accomplish.

Mayor Cotugno concurred with Mr. Neville. He said what they are trying to do in this community is put forth what they want to see happen with the master plan and those deliverables would derive a scope of work along with guidance to Mr. Jeffries. This would be helpful in finding the right consultant. He said that this is basically how it was done for the Three Corners project. He said by doing it this way hopefully they can get the plan they are looking for.

Mrs. Zudans felt that there needed to be a set of rules or guidelines to do this effectively and efficiently. It would be helpful if the community saw them moving forward in a direction that has an order of how things are going to be done. Then when they have discussion the community is being heard in a broad scale and they can tell them what the

next step is. This would be helpful to the community in moving forward, although it might be slower than what they would expect.

Vice Mayor Moore expressed that they were also waiting for the Twin Pairs Traffic Study to be completed and then they would start having charrettes.

Mr. Falls clarified that there would not be any meetings with the public at this time, he said their consultant (Kimley-Horn) is only collecting data.

Vice Mayor Moore felt in the meantime discussions of downtown could be incorporated.

Mrs. Zudans didn't want them to dilute the study because it might take away from the data.

Mr. Falls said once they receive the answers on the data collected from the consultant then Council will decide which way they want to proceed. If they decide to move forward then there would be public meetings held and if they don't move forward then this would be a moot point.

Mr. Zudans expressed the importance of the community seeing that they are moving forward and not just being heard.

Mr. Carroll commented that within the last three (3) years they did a master plan for the Cultural Arts Village so they have a step by step process that can be used.

Mayor Cotugno said it could be used as a guideline, but let's not mimic it.

Mr. Carroll said they could use the step process, but it wouldn't be for specifics.

Mayor Cotugno went over some of the things that will become different aspects of the downtown master plan. They could sit down at the workshop and discuss what would complete the next level for downtown then convert them for the deliverables that they want and a consultant could be hired to assist staff. He said the Cultural Arts Village was another aspect of the total plan that already has happened.

Mrs. Zudans asked when the traffic study would be done.

Mr. Falls explained that once Brightline has reopened the railroad tracks, which is April 21st, then the consultant could start collecting data.

Mr. Carroll said they are not addressing the traffic study. What they are addressing is they don't have a planning consultant to assist them to move to the next level. They are paying these consultants to help them.

Mrs. Zudans asked Mr. Jeffries what would be helpful to him.

Mr. Jason Jeffries, Planning Director, explained the whole process. He said that the Purchasing Department issued the Request for Proposals (RFP) for the planning firms that he selected and they are in the process of being informed. As it relates to downtown he hoped to have the contract for the consultant at the first Council meeting in May. Once they are under contract they can issue work orders and continue with the downtown market study with Mr. Bob Gibbs (consultant he has chosen), which will take about 90 days. Mr. Gibbs will help determine what the market reach for downtown is. He went over what the planning process is and how it is handled. Once they get the market analysis for downtown a planner will review all the existing adopted plans and review all the old studies that the City has done.

Mayor Cotugno reiterated that they will sit down at the workshop in April and come up with the deliverables which can be discussed with the consultant that has been chosen.

Mr. Jeffries explained that he has recommended five (5) different consultant firms for different areas of expertise and the contracts will come to the City Council for approval.

Mayor Cotugno explained the reason that they were not having the workshop to discuss Pocahontas Park was because he was trying to get different agencies involved and be present at the workshop. That would include the police and businesses located downtown.

Vice Mayor Moore wondered if they should wait until June and discuss the master plan for downtown.

Mayor Cotugno expressed the importance of telling the consultant what they want. If they have a list of deliverables it will give direction to the consultant and more what the community is looking for and not just what the consultant is looking for. He said we want to manage the process and not the consultant.

Mrs. Zudans agreed with waiting to discuss the downtown master plan until June otherwise the community will be confused.

Mr. Carroll said that the process has already been started. He heard Mr. Jeffries say that he has identified and selected the consultants. The City Council will not be interviewing the consultants and selecting them. They need to trust that Mr. Jeffries will make the right selection.

Mayor Cotugno said it is not the consultant for the master plan.

Mr. Jeffries explained that he has laid the foundation for when they make their decision to go forward. He agrees with the Mayor that they need to manage the consultant.

Vice Mayor Moore asked if June would be the more appropriate time to discuss downtown.

Mr. Jeffries said it depends on what they want to accomplish.

Mayor Cotugno said they don't want to delay this. They need to keep this moving along. He knows they won't solve everything in one (1) meeting, but they will begin the process.

Mr. Carroll suggested having the Mayor put together what he thinks is appropriate for the agenda to discuss at the meeting and then they can decide whether or not to keep them on the agenda.

Mrs. Zudans did not want to waste the public's time to have a meeting. She said their time is very valuable.

Mayor Cotugno brought up the Mainstreet meetings that have been taking place as a result of the downtown master plan. Now they can begin a discussion to start formulating deliverables for that master plan.

Mr. Carroll asked who develops the agenda for the workshop.

Mayor Cotugno said that he would do that along with Mr. Jeffries. He originally brought this up after they all had reached a consensus to have a workshop.

Mr. Carroll said at this point in time they do not have the needed data or the consultants. They could get more out of the meeting if they waited and had it at a later date. He said in two (2) weeks there will not be any data available.

Mayor Cotugno commented that it was a typical engineers question to ask where the data is. He said they haven't done that yet. He said if they don't keep moving the target downstream it will never get addressed because it will keep being delayed.

Mrs. Zudans expressed that they all want to work on it, but want to do it effectively. They are not kicking the can down the road.

Mr. Neville questioned what the desirable outcome will be.

Mayor Cotugno said he has been working with different agencies in the community to see what they want their downtown to look like.

Mr. Neville asked if that was documented.

Mayor Cotugno said that he has been talking to people individually because of the Sunshine Law. He said these people are concerned about downtown.

Mr. Neville asked what their desired outcome for the next meeting is.

Mayor Cotugno said their first meeting would be to address the downtown master plan and work on some definitions for downtown and what their vision is.

Mr. Neville said so each of the Council would bring their own vision of what they feel downtown should look like. He said that's a lot of detail and a lot of work. He did not get that sense for this workshop.

Mayor Cotugno said it takes more than one (1) workshop to get that done.

Mr. Neville said to make this successful they need to know what is their objective. He said each of them should know that.

Mayor Cotugno said he would issue/work on the agenda ahead of time.

Mr. Neville said then all five (5) Councilmembers will bring what their vision for downtown is and then harmonize it.

Mr. Falls reported that the consultant would have the data study for the Twin Pairs back to them in July. Their consultant will not start on the work by the time they have their first workshop.

Mr. Neville brought up the big silver boxes on the Twin Pairs and hoped that FDOT (Florida Department of Transportation) would turn them on so they could receive additional data.

Mr. Falls said that he would ask assertively that they are the public and they need this information.

Mr. Carroll brought up that he has not forgotten about the golf cart situation. He met with staff in regards to reviewing the State Statute and their Ordinance to help solve some of the issues that are going on. He said this is something that they need to address in the near future.

E. Councilmember Neville's Matters

Mr. Neville hoped everyone had read today's newspaper and saw the letter from Mr. Rory Giseman saying that his car stopped on the bridge and two (2) women hopped over the railing to help get his car out of traffic. Then the Police Officer that showed up turned his flashers on and helped calm down Mr. Giseman. This is what good Samaritans do.

Mr. Neville showed a picture of the wonderful day that he spent at the ORCA Center located at the City's Water Department at the Airport. One (1) of the pictures showed Ms. Donna Schindler who works for ORCA.

Mr. Neville participated in the Senior Resources Meals on Wheels program and wished that there was more they could do to support these people. He would encourage anyone looking for volunteer work to contact the Senior Resources. He also commented on the event that he attended at the Environmental Learning Center and the large art display that they had.

Mr. Falls brought up that once he receives a copy of the court hearing that they attended on Tuesday (Fourth District Court hearing) he will have the Clerk put it on their website.

13. ADJOURNMENT

Today's meeting adjourned at 3:01 p.m.

/tb