

VERO BEACH UTILITIES COMMISSION MINUTES
TUESDAY, JUNE 14, 2022 - 9:30 A.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

PRESENT: Chairman, Jane Burton; Vice Chairman and Indian River Shores Representative, Bob Auwaerter; Members: Bill Eggers, John Sanders, Mark Mucher, Judy Orcutt and Member at Large, JT Mooney **Also Present:** Water and Sewer Director, Rob Bolton; Assistant City Attorney, Jenny Flanigan and Deputy City Clerk, Sherri Philo

1. CALL TO ORDER

The Chairman called today's meeting to order at 9:30 a.m. and the Deputy City Clerk performed the roll call.

2. APPROVAL OF MINUTES

A) May 10, 2022

Mr. Auwaerter made a motion to approve the minutes of the May 10, 2022 Utilities Commission meeting. Mrs. Orcutt seconded the motion and it passed unanimously.

3. PUBLIC COMMENT

None

4. NEW BUSINESS

A) Discussion of Setting Future Agendas – Mr. Monte Falls, City Manager

Mr. Monte Falls, City Manager, asked that if a member has a matter of individual concern that they want to place on their agenda that it be brought up at a meeting so staff could ask questions to make sure they get exactly what they were looking for.

Mr. Auwaerter asked Mr. Falls if the Commission would be doing a review of the Water and Sewer budget like they have done in past years.

Mr. Falls said that he would speak with the Finance Director to get that scheduled.

5. OLD BUSINESS

A) Continuing Discussion on the objections to Florida Department of Environmental Protection Indian River Lagoon Basin Management Action Plan – Mr. Matt Mitts, Director of Public Works and Mr. Rob Bolton, Water and Sewer Director

Mr. Matt Mitts, Director of Public Works, went over staff's report and their suggested amendments to the Basin Management Action Plan (BMAP) with the Commission members (attached to the original minutes). He said staff has three (3) recommendations that they would like the Commission to consider and forward to the City Council. He stated that the BMAP is broken in that it doesn't enforce what the State is trying to do in terms of making stakeholders contribute collectively towards nutrient reductions. He said

the City has been progressive with the Deep Injection Well, the STEP System Program, and their future initiatives, and staff feels that it puts the City at an unfair disadvantage in doing all these projects that costs a considerable amount of money and effort and then not have other parties contribute globally. He said there is no incentive for the City and other stakeholders to work together, such as the County working with the City on a project. He said to tackle restoration of the Lagoon it is going to require large scale projects. He said the Florida Department of Environmental Protection (FDEP) needs to step up and do something to make the stakeholders do their part and to work together. He asked that the Commission approves the three (3) strategies to remedy the lack of enforcement by FDEP for the Lagoon BMAP that is listed in staff's report.

Mr. Auwaerter asked are the parties to the BMAP solely municipalities or are there any private entities that are assigned reductions through the program.

Mr. Mitts said that he is not aware of any, other than possibly NASA.

Mr. Auwaerter said, but not a private entity such as Piper Aircraft.

Mr. Mitts said that is correct.

Mr. Eggers said in this case the language could be written into the BMAP, but it would have to be inserted into each BMAP because each one is separate and no two (2) are alike. He felt that the north and the south were also stakeholder driven.

Mr. Mitts said that is correct. He said it is a collaborative effort with the stakeholders.

Mr. Eggers said in order to clean up the entire Lagoon or at least to enforce it, the language would have to be inserted into the north and south BMAP's.

Mr. Mitts said that is correct. He said there are three (3) BMAP's for the areas north of Ft. Pierce.

Mr. Eggers asked has there ever been any effort to bring all three (3) of those BMAP stakeholder groups together in an effort to address this collectively.

Mr. Mitts said yes and no. He said the biggest organizing party is the Indian River Lagoon National Estuary Program, which spans all five (5) counties. However, there is no direct reporting relationship between the Lagoon Council and the County.

Mrs. Orcutt referred to the penalties. She said at times for different penalties there is a provision where if an entity is charged with a penalty they could do a project for that same amount of money instead of paying the penalty.

Mr. Bolton explained the way he calculated the penalties. He said in lieu of them doing the work, they could pay the penalty and those penalty funds would be available to other entities through grant programs so that they could construct the infrastructure needed to improve the Lagoon.

Mrs. Orcutt said agriculture is draining into the Lagoon and yet agriculture is not held at the same level of responsibility as all the other entities are as far as reducing and being accountable to nitrogen and phosphorous.

Mr. Mitts said that is a different problem. He said agriculture is regulated under the Florida Department of Agriculture and Consumer Services (FDACS). He noted that both the FDEP and FDACS have the ability to enforce this, but neither party is. He felt that there was a higher chance of getting a tangible result if they just focused on the municipal stakeholders because agriculture is a different animal all together.

Mr. Mooney asked is there a list of the stakeholders.

Mr. Mitts said they are in the BMAP document, which he would sent to the Commission members.

Mr. Mooney asked would the stakeholders be individual homeowners.

Mr. Mitts answered no.

Mrs. Burton said there was a five year milestone in that an assessment should have been done in 2020 regarding how much of a percentage the City has achieved towards the 35% reduction they are supposed to have in 2025. She asked Mr. Mitts what the City's reduction percentage is currently.

Mr. Mitts said they are at 64%. However, with the projects they are proposing in the 2035 horizon they would be close to 140%. They are currently past the 2025 and 2030 deadlines.

Mrs. Orcutt thought it was awesome that the City was at 64%. She pointed out that a lot of that reduction was the Deep Injection Well. She said that is somewhat of a questionable process in some places where they don't think a Deep Injection Well was a good idea. Also, they were currently in rulemaking and rules make it harder so they cannot get over confident on where they are with the Lagoon.

Mrs. Burton noted that the City put in a Deep Injection Well that took into consideration some of the flaws of the earlier Deep Injection Wells.

Mrs. Orcutt made a motion that the Commission supports the City's effort to improve the BMAP by asking each stakeholder to meet individual reductions with enforcement, that they recommend to the City Council that they send a letter to the Legislative Delegation and that the City Council adopts a Resolution (that they support the three (3) strategies to remedy the lack of enforcement by FDEP for the Lagoon BMAP that is listed in staff's report). Mr. Mucher seconded the motion.

Mr. Auwaerter asked to have the motion read back to them.

Ms. Sherri Philo, Deputy City Clerk, read back the motion.

The Chairman opened and closed public comments on this item at 10:06 a.m., with no one wishing to be heard.

The motion passed unanimously.

6. CHAIRMAN'S MATTERS

A) Discussion of Meeting Frequency

Mrs. Burton said they generally hold monthly meetings and at times their meetings are cancelled because they don't have anything to discuss. She asked the Commission members if they wanted to keep their current schedule or if anyone had a different meeting schedule they would like to initiate.

There were no comments made by the Commission members.

Mrs. Burton said they would continue with their current meeting schedule.

Mrs. Burton reported that last Tuesday the City Council approved the next step of the Stormwater Utility, which was the approval of the Initial Assessment Resolution. She said that she was unable to attend that meeting, however she sent a letter to the City Council to notify them that the Utility Commission was in agreement with moving forward. She explained that in the approval of the Initial Assessment Resolution, the City would provide individual mailed notices to each property owner to be assessed, advertising a public hearing to be held on July 19, 2022, for final adoption of the assessment. The notices would include the number of Equivalent Residential Units (ERU's) and the amount of the assessment proposed for each property. She wanted the Commission members to be informed of the public hearing and asked that they put that date on their agenda.

Mr. Mucher asked if the City Council settled on a proposed ERU rate.

Mr. Falls said staff would get that information to the Commission members prior to the end of today's meeting.

Mr. Eggers asked will the letters be mailed to the residents of the City of Vero Beach or to everyone within the service area.

Mrs. Burton assumed that they would be mailed to the residents and property owners within the City of Vero Beach. She did not think they would be sent to the unincorporated areas.

Mr. Auwaerter said that he would like to know what was being back charged to the Water and Sewer Fund.

Mr. Bolton said it would be \$23,900 for the year.

Mr. Mitts reported that the proposed ERU rate is \$6.26 per month or \$75.17 per year, per ERU.

Mr. Mooney asked to what extent would that improve the number from the 64% in the BMAP contribution.

Mr. Mitts explained that the City's current Capital Program is strictly focused on maintenance on the existing system. In the future they would be putting in projects for water quality.

Mr. Mucher asked does that mean that this additional money from the tax is not going to offset existing monies being spent.

Mr. Falls explained that this is a dedicated funding source for stormwater capital projects only.

Mr. Mucher asked would the new income be added to the old budgeting or would there possibly be some displacement.

Mr. Falls explained that the City would be setting up a new stormwater capital construction fund that all stormwater projects would be funded out of by the Stormwater Utility if it passes on July 19th. The other capital projects would then compete for the existing Capital Project Fund, which would be Recreation, Public Works, Police, etc. They would not have to compete with stormwater for those funds. Stormwater would have their own dedicated funding source from the Stormwater Utility.

7. MEMBER'S MATTERS

A) Update on Progress Meeting the Requirements of SB712 – Clean Waterways Act – Mr. Rob Bolton, Water and Sewer Director – Requested by Mrs. Judy Orcutt

Mrs. Orcutt reported that SB712 has a lot of complicated variables to it, all aiming to clean up State waters. She said there are some things that have deadlines and some things that require annual reporting. She felt it would be good for the Commission members to keep track of what is going on locally. She said that she asked Mr. Bolton to give the Commission members an update on the things that have to do with sewer. She said a few years ago Mr. Bolton discussed hiring more employees and getting cameras to visually inspect every pipe, etc. She asked Mr. Bolton to report on the progress.

Mr. Bolton reported that about a year after SB712 was passed HB53 was passed, which requires cities and counties to submit to the State a 20-year projection of needs for funding. Part of that was that they look at their infrastructure for both stormwater and wastewater to see what needed to be replaced based on end of useful life and their Five Year Capital plans. The deadline for this is at the end of the month and staff is ready to submit the City's documentation to the County and the County sends the information to the State.

Mrs. Orcutt said the Bill specifically states that they are to run the cameras through the lines and to submit a report. She asked Mr. Bolton if this has been started.

Mr. Bolton reported that they have purchased a camera to televise the manholes, which they would be starting.

B) Update on Stormwater Outfalls – Mr. Matt Mitts, Public Work's Director – Requested by Mrs. Judy Orcutt

Mrs. Orcutt said in the Indian River Boulevard and Miracle Mile area there are three (3) types of stormwater retention. She asked Mr. Mitts to discuss which one (1) of the three (3) works better and what type of maintenance has to be done on them to keep them working.

Mr. Mitts said the dry retention ponds are fairly tried and true. However, the State has found that over decades of them being used the contaminants are sinking into them.

Technically the material should be dredged and replaced with clean fill, however that is not occurring throughout the State.

Mr. Eggers said stormwater ponds were highly variable in their efficiency in what they reduce. He said a wet pond probably is not doing much for nitrogen and a dry pond would effectively remove more nitrogen than phosphorous.

Mrs. Orcutt asked of the 219 outfalls that the City has, what percentage has any treatment.

Mr. Mitts said in looking at the map of the Vero Beach Watersheds and Outfalls that was provided to the Commission members (attached to the original minutes) it is probably about half.

Mrs. Orcutt asked if the City has a maintenance schedule for the baffle boxes.

Mr. Mitts reported that the maintenance schedule at a minimum is once a quarter, however they check them every time there is a serious rainfall event. He noted that they have a log on the City's website that shows every baffle box and the last time they were pumped out.

C) Copper Pipe Corrosion Update – Rob Bolton, Water and Sewer Director – Requested by Mr. Mark Mucher

Mr. Bolton showed on the screen Pipe Replacement Permit Locations (attached to the original minutes). He reported that the County's water system has gone up in the number of re-pipes and over the last few quarters the City's number of re-pipes have gone up. He reported that this quarter the City has had 18 re-pipes. His concern is that maybe they are starting to experience a problem. However, it could be that they were all re-models. Also, because there are people talking about the copper pipes leaking there are people who are replacing their copper pipes proactively because they are worried that their pipes are going to leak. He said that he is going to contact the plumbing companies that did the work to find out why the pipes were replaced.

D) Update on the Town of Indian River Shores verses the City of Vero Beach – Ms. Jenny Flanigan, Assistant City Attorney – Requested by Mr. Bill Eggers

Ms. Flanigan gave a brief update on the lawsuit between the Town of Indian River Shores verses the City of Vero Beach.

Mr. Keith Drewett said recently in the press there have been comments about public access and public comments on matters. This meeting rebuts those comments. He said it has been a very informative meeting, there are four (4) Councilmembers present, the City Manager, and two City Directors. He said it has been a very good meeting to sit and listen to. He said a major point to have the Stormwater Utility is that there is a source of funding for matching grants. He reported that in terms of Legislative funding, Brevard County received \$67 million in grant funding, the County received \$3 million in grant funding, and the City of Vero Beach did not receive any grants funds. That is why this funding source is so important. He thanked the Commission for their support and the City Council for their vote to move forward last week. He said there are a couple policy issues that the City is going to have to confront. One is that about 50% of homes on the Island have not connected to the STEP System and some of the homes are million dollar homes that sit on

Bethel Creak with a septic tank and at some point that is going to have to be addressed. On the mainland there is a different policy issue. He said homes on the mainland with a value of \$100,000 or less that are not investor owned are unlikely to be able to afford \$10,000 to connect to the STEP System. He said the Clean Water Coalition is working on a resolution and will keep the Commission updated as time goes on.

8. ADJOURNMENT

Mr. Auwaerter made a motion to adjourn today's meeting at 11:16 a.m. Mrs. Orcutt seconded the motion and it passed unanimously.

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