

**CITY OF VERO BEACH, FLORIDA  
JUNE 16, 2020 8:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Rabbi Michael Birnholz of Temple Beth Shalom.

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

Mr. Graves led the Council and 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 – June 2, 2020**

**Mr. Neville made a motion to approve the June 2, 2020 minutes. Vice Mayor Moss seconded the motion and it passed unanimously.**

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

**Mr. Neville made a motion to adopt the agenda as presented. Mr. Brackett seconded the motion and it passed unanimously.**

**B. Proclamations and recognitions by Council.**

**1) Retirement Plaque to be Presented to Mr. Eric Menger, Airport Director, for his 29 years of service to the City of Vero Beach**

Mayor Young presented Mr. Eric Menger, Airport Director, with a plaque thanking him for his 29 years of service to the City of Vero Beach.

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

**A) 2019 Annual Report – Airport**

Mr. Eric Menger, Airport Director, presented his 2019 annual report for the Vero Beach Regional Airport (attached to the original minutes).

- B) Vero Beach Baseball Association Lease Renewal**
- C) Replace Existing 7.5 Ton HVAC Split System (\$200,117.00)**
- D) Renew Disaster Debris Removal Management Contract SRVC-30-2017, Thompson Consulting Services, LLC and Contract SRVC-31-2017, Tetra-Tech, Inc. (Secondary) – No Cost Unless Activated.**

**Mr. Neville made a motion to adopt the consent agenda. Vice Mayor Moss seconded the motion and it passed unanimously.**

#### **4. PUBLIC HEARINGS**

##### **A) ORDINANCES**

- 1) An Ordinance of the City of Vero Beach, Florida, amending Chapter 38, Article 1 (Signs) of the Land Development Regulations to Revise or Add Sign Definitions, Revise the List of Prohibited Signs, Revise the List of Signs exempt from the Sign Regulations, Revise the list of Signs not requiring permits, Revise the General Sign Regulations, Add Standards for Specific Sign Types, Revise Sign Requirements for Residential and Non-Residential Zoning Districts Revise Temporary Sign Standards, and Requirements for Removal of Abandoned Signs, Revise Standards for non-conforming Signs, Add a Substitution Clause, and Revise Application Review Process; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, reported that this is an amendment to the City's sign regulations in Chapter 38, Article I. The primary purpose of the Ordinance is to amend the City's sign regulations to remove "content-based" sign regulations to ensure the City's sign regulations conform to United States Supreme Court First Amendment decisions. The text amendments also improves the readability and clarity of the City's sign regulations by including sign type guidelines and adding charts to the zoning district regulations recommended by Model Sign Ordinances. The Planning and Zoning Board held a public hearing on May 21, 2020 and voted 5-0 to transmit the Ordinance to the City Council for favorable consideration with a recommendation that the period for displaying election signs be reduced from 90 days to 60 days. Due to constitutional issues related to free speech, this recommendation is not incorporated into the proposed Ordinance.

Mr. Jeffries went through a prepared Power Point Presentation (attached to the original minutes). He first started with the summary of changes. In Section 38.02 he removed

content-based definitions and added definitions for sign types. In Section 38.03, exemptions from sign regulations were included, which included to clarify the sign type terms, add traffic control signs to the exempt list, add legal and regulatory notices to the exempt list and add historical markers to the exempt list. In section 38.05, the Application Review Process was simplified for the temporary sign review process. In Section 38.09, for signs not requiring permits, he removed content-based temporary signs. In Section 38.10, which is general sign regulations, he added criteria for a sign area. Under Section 38.11, it addresses temporary signs require permits. In the special event signs it was changed to off-premises temporary weekend signs in public right of ways, he added a provision for street pole banner signs and added community event banner signs can only be on 14<sup>th</sup> Avenue location and promote downtown events. The justification for the amendments were to comply with the Supreme Court case to remove “content-based” regulations, the Comprehensive Plan requires the City to improve the Land Development Regulations for readability, clarity, and ease of administration. That it improves the clarity of the sign standards and the text amendment is justified. The Ordinance is consistent with the Comprehensive Plan and Land Development Regulations. He recommended approval of the Ordinance.

Mr. Brackett asked if the traffic control signs applies to businesses for parking lots.

Mr. Jeffries gave an example of McDonalds on US1 where they have an arrow for their drive thru. He said that would not be regulated.

Mr. Brackett asked about signs being allowed in the right-of-way.

Mr. Jeffries explained that temporary weekend signs and banners are allowed, but no permanent signs are allowed in the right-of-way.

Mr. Brackett asked about sandwich board signs being allowed in some business districts.

Mr. Jeffries explained they are allowed in any non-residential zoning district.

Mayor Young asked about flags, including the American flag.

Mr. Jeffries said that flags do not require a permit and are covered under Section 38.09. He said that the flags and flag pole are limited to a certain size, which is the current standard.

Mayor Young pointed out that that the flag pole is limited to 25 square feet and there are flags in their surrounding Parks that are taller than that. He wondered if there will be any conflicts.

Mr. Jeffries explained that the flags will be non-conforming.

Mr. Turner explained that the flag poles in Parks and like any monuments that are in Parks have been construed as freedom of speech by the City. There are no First Amendment

issues. The flag pole is a monument however, it must comply with safety issues. Just like the banner that flies across 14<sup>th</sup> Avenue. It is the City conveying a message.

Mr. Jeffries added that the 25 feet in height is remaining the same and there has not been any proposed changes. That is in the current Code. He did not know what the height of the flag on Memorial Island was. He was told that it is 70 feet. He will look into this further. He said being higher than 70 feet violates the Charter.

Mr. Monte Falls, City Manager, wanted the Council to be familiar with the new guidelines for banner signs as discussed by Mr. Jeffries earlier. He said that this is a change from the current practice and he just wanted Council to be aware of it.

Mr. Jeffries said that the banner section was drafted to be defensible, but still allow it in the downtown district.

Mr. Turner added making it tight enough that it is an item that you examine it and it is content neutral.

Mr. Graves said that it is a Supreme Court decision so they can't make any other decisions.

Vice Mayor Moss asked if Council wanted to make an exception for something in the Sign Ordinance on how that would be done. Would the applicant need to bring it to City Council and would they need to vote on it.

Mr. Turner explained that the applicant could apply for a variance or exception. It would go to the Planning and Zoning Board and then come to the City Council. He thanked Mr. Jeffries for all of his hard work on this sign Ordinance. He has been working on it for a good year. He feels that it is a very good sign Ordinance.

Mayor Young opened up the public hearing at 9:43 a.m.

Mr. Brian Heady asked if a Code Enforcement officer could trespass on someone's property to remove a sign. Then he suggested as far as the flag goes to just add language that flag poles are exempt. He said that would solve everything. He wondered why there were not flags flying on Flag Day.

Mr. Turner stated that Code Enforcement officers were not authorized to go on private property for removal of signs.

Mr. Jeffries explained that flags pertain to non-conforming signs. He will take a look at Section 38.16 that deals with the definition of non-conforming signs.

Mr. Heady objected to a caveat that the signs be legal as they exist now. He said that what he suggested was any flag pole that exists today that exceeds the height limit be grandfathered in.

Mr. Graves said that Section 38.16 is the grandfathering clause. He doesn't see where it states what Mr. Heady is addressing.

Mr. Jeffries explained that the flag pole is a sign under the definition so it is a non-conforming structure.

Mr. Graves did not see that in the Ordinance. He asked if there was a grandfather clause in the Ordinance.

Mr. Jeffries said that you must go to the definition section. He said that they could add a subsection (e) so no one could come in and remove their flag poles.

It was the consensus of Council to put flags out on the bridges on Flag Day.

Mr. Turner requested a short break to allow staff to research the Code on this matter.

Mayor Young called for a short break and the meeting reconvened at 10:05 a.m.

Mr. Jeffries referred to Chapter 64 that addresses flags and said when it comes to flag poles there was no time frames being regulated and he is not proposing to amend that rule.

Mayor Young commented on the limitation of the flag size. He said the last thing that they want to do is prohibit Garrison flags from being flown.

Mr. Jeffries said that these are existing conditions so they would be allowed to remain.

Mr. Graves said there seems to be a conflict.

Mr. Jeffries commented that there are specific requirements for existing signs. Their non-conforming Section under Chapter 64, Article 2, is difficult to navigate in terms of interpreting. It needs to be updated for clarity.

Mr. Graves suggested adding subsection (e) with a grandfather clause.

Mr. Turner suggested putting a reference in Chapter 64 for that provision (in the sign Code). Mr. Jeffries said they could do that and say any existing flag poles.

Mayor Young asked if it would be advisable for staff to bring this Ordinance back in the future.

Mr. Jeffries said that they could continue this until the next City Council meeting.

Mr. Neville commented that if you have all non-conforming matters in the same Code then you have conflicting scenarios.

Mr. Jeffries said as much as possible they want to keep the general provisions in the same place. He agrees in Chapter 64, where they speak of non-conforming that there does need to be a rewrite.

Mr. Graves agreed and said especially addressing grandfathering in. They don't want to have conflicting Codes. He said there could be a grandfather clause in this Ordinance and then they could revise the Ordinance to make sure that it doesn't conflict with other Ordinances.

**Mayor Young made a motion to approve the caveat language brought back for their review to address the grandfather clause.**

Mr. Turner recommended bringing back everything at the same time and have all the updates included.

Council agreed to add this item on to their Workshop/Special Call meeting scheduled for June 23<sup>rd</sup>.

Mr. Heady apologized that his suggestion got so weighted down. What he asked for was not that difficult. Another meeting and having another public hearing is not necessary. He said all they have to do is exempt non-conforming and grandfathering for all existing flag poles. They don't need to waste any more taxpayer's money for a public hearing. He said take the existing flag poles and grandfather them in as non-conforming.

**The motion died for lack of a second.**

**Mr. Brackett made a motion to continue this case until the Special Call/Workshop meeting to be held on June 23, 2020 at 9:30 a.m. Vice Mayor Moss seconded the motion and it passed unanimously.**

- 2) An Ordinance of the City of Vero Beach, Florida, instituting a Moratorium on Site Plan Approval, for Development within the Cardinal Drive/Ocean Drive Commercial Overlay District, for 180 days to allow time for formulation and adoption of revised off-street requirements Ordinance; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jeffries stated that this Ordinance is to institute a 180 day moratorium on site plans pursuant to Section 64.06 for new or expanded commercial development within the Cardinal Drive/Ocean Drive Commercial Overlay District. The request is a follow up to the February 25, 2020, City Council parking discussion where implementation strategies were discussed for the recently completed parking study for the Cardinal Drive/Ocean Drive Business District. One of the strategies is to revise the parking standards for commercial development to ensure adequate on-site parking is provided by new or

expanded commercial development in the overlay district. The moratorium will give staff time to prepare recommended amendments to the City's off-street parking requirements in Chapter 63 and any specific parking requirements for the overlay district, based on current trends and practices in the planning field. The Planning and Zoning Board held a public hearing on May 21, 2020 and voted 5-0 in favor of the Ordinance.

Mr. Brackett had hoped that the moratorium would be shorter than 180 days.

Vice Mayor Moss thanked Mr. Jeffries for doing this. She said that she went to Ocean Drive last Saturday and there were no parking spaces to park in so the problem has returned. She said there actually was a traffic jam on Ocean Drive and Beachland Boulevard. She is happy to see people going to the beachside and again thanked staff for the moratorium.

Mayor Young opened the public hearing at 10:25 a.m.

Mr. Brian Heady said that four (4) cars really is not a traffic jam.

**Vice Mayor Moss made a motion to approve the Ordinance. 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**

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

The City Clerk read a public comment from Ms. Patricia White concerning Leisure Square Covid-19 membership suspensions (attached to the original minutes).

The City Clerk read a public comment from Ms. Paula Manrique asking what steps is the City of Vero Beach taking in order to better allocate taxpayer's money to issues that require mental health specialists over police presence? Besides press conferences, what will the Vero Beach Police Department do to reprimand past acts of racism that led to unfair treatment (attached to the original minutes).

Mayor Young stated that in response to the last public comment from his observation the best manner to address these concerns is in the training that they provide to their Police Officers.

Mr. David Currey, Police Chief, stated that from a mental health aspect, he thinks that Florida is in the forefront as far as training goes. Patients with mental health issues can register with them and get an arm band, which has a number on it and it helps the Police Department when working with people who may have some illnesses. The program is called CIRCLE, which stands for Combined Indian River County Law Enforcement. He said what they have to do as a Police Department is stay on top of this. The other part of the equation is one (1) of their values is integrity and service and they strive to have that regardless of race. If something is reported that is not right they will hold themselves

accountable. For years the Police Department has had training in culture diversity. Every year they are audited concerning the number of times that use of force happens. He said all this information is on the Police Department's website. It shows the amount of people and their colors or origins who have been addressed. He thought that out of 600 people that were arrested last year, 500 of those people were Caucasian. When the Police Department held their own forum last Thursday evening concerning racism and violence, he invited anyone to come and see him. He said that an African lady called him a few days later and he spent time with her yesterday and she wanted to know what they were doing and he shared various documents with her, as well as the use of force documents. He plans to meet with her on a monthly basis and she will spend time with him throughout the year on different projects. They also provide tours at the Police Department to bring people in and show them what they do.

Mayor Young agreed that was critical.

Vice Mayor Moss thanked the Police Department for their engagement. They have been out front on this and she thinks that this is the way to handle it. She told Chief Currey that he represents the City very well.

Mr. Neville asked about the CIRLCE program and said that he did not know about it. He said it is important for these people to be identified.

Lieutenant Matt Harrelson, Vero Beach Police Department, stated that he worked with the Police Chief and Indian River County Sheriff in creating this new program. It is a special needs registry voluntary program of the combined Indian River County first responder agencies. Its purpose is to compile and maintain a list of individuals who have special needs due to mental or neurological disabilities and who may reside or frequently visit Indian River County. The residents of Indian River County are invited to provide information about themselves, or a loved one with special needs of any age, who may require special assistance in an emergency interaction with local first responder agencies. The registration is completely voluntary. Lieutenant Harrelson explained that he puts this information into a data base and shares it with all of the law enforcement agencies of Indian River County. He said information about this project is on the City's Police Department's website and he will send information to the Council about it. They currently have 27 people enrolled in the program.

Mr. Neville commented that what they are doing is extraordinary. He thinks this is a wonderful program.

Mayor Young thanked Chief Currey for keeping his department engaged.

Mr. Graves thought that the Police Department handled the event very well on Thursday night and he spoke to the Police Chief about it. The groundwork has been laid out for some time. This goes from the top down and they are fortunate to have a Police Chief as a leader before there were issues. He was happy to see that the use of force policy is constantly

being reviewed. He reiterated that they are so fortunate to have Chief Currey here especially now when they need such strong and good leadership.

Mr. Brian Heady felt that they could get rid of the barriers in the room (referring to how many people are allowed because of the Coronavirus). He has been socially distancing from people for the last 20 years. He said that the way they conducted the Council meetings with people sending in their comments to the City Clerk did not work for him because by the time he got his comments typed Council was on to another item. Mr. Heady brought up the discussion of building a new City Hall and the roof leaks that exist in this building. He said just fix the roof leaks. He mentioned that the building at Humiston Park is an absolute disgrace and has been like that since the hurricane. It continues to deteriorate.

Mr. Neville explained that repair of the roof is in the next budget year. His intent was to repair the roof or look at building a new City Hall. The cost for repairing the roof was estimated at close to one-million dollars.

Mr. Heady stated that if it is going to cost that much for a new roof then maybe they should look at getting another contractor. He felt that was an awful lot of money. He talked about when the Finance Director mentioned last year that Police Department cars were breaking down on the side of the road. He said if that was the case they would need a new Police Chief. He showed a filter for City drinking water. It was white before running City water through it. They have an issue with the well water. He recalled when Caroline Ginn, chaired the County Commission, they moved the Humane Society to a new building because of ground water contamination and it was affecting the dogs at the Humane Society. They spent a lot of money to move the Humane Society. At that time they showed a migration of pollutants winding up hitting City wells where they get their potable water from. He was told by the Mayor that the County was looking into this. He suggested looking at whose property is causing the pollution. He has a lot of flowers on his property. He can cut them and put them in a vase, but he has to use bottled water. If he uses tap water the flowers are dead in one (1) day and the same flowers in filtered water will last two (2) or three (3) days. He said good uses of the Three Corners where the Water Treatment Plant is now is how to supply water to their community. He brought up the demonstration organized by the Chief. He understands the praise given to the Chief for being out front. He wanted to know who organized the protest. The pictures that he took show predominantly white people. If you are going to have an event like this there needs to be someone responsible for the event in case something goes wrong. If the Chief organized it that makes him responsible for it. He does not want to be the one (1) responsible for protesters lying down in State Road 60. He said that usually there is an application that has been approved and is on file.

Vice Mayor Moss understood that the City did not sponsor it.

Mr. Heady said whoever sponsored it and was able to get a major Police Department to attend did a good job. But, he wanted to know who the organizer was. He said as much as he appreciates the Police Chief out in front of things, he wanted to know that the City did not organize the demonstration. He said that people in this community are not racial.

Mayor Young commented that their law enforcement responded in a manner that protected these people to do lawful protests. The nature of the current affairs forces the Police Chief and the City to react in a certain manner.

Mr. Heady suggested that before this happens again that the City Council has discussion on it and decides what type of parades and marches will be held. He asked Vice Mayor Moss to produce the documents that she has. He knows that he has been denied in the past for public records that he has asked her for. He has also been removed from this podium for speaking.

Vice Mayor Moss stated that she has no public documents on this.

Chief Currey said that he put out a letter to their community that he thought it would be a good thing for their community to be out in front. He organized the gathering that occurred at the Police Department on Thursday night at 5:00 p.m. The demonstration that occurred downtown did not have 24 hour notice. He said the organization was Black Lives Matter. He is responsible for public safety for this protest and he does what he has to do. He was not able to find the person who organized the event. It was a lawful assembly on a public sidewalk. He said that there were some business owners who were nervous about this demonstration and he wanted to be there for them. He did not know that it was going to be a march through the City streets. He said that these people gathered at the sidewalk and then they wanted to march. They will do the same thing if this should happen again. He heard that next Monday, Dr. Clark has posted something and again safety will be his number one (1) concern. The message that they want to send is that they are not tolerating police brutality and will provide safety.

Mr. Graves understood what Mr. Heady is talking about. As a City they cannot restrict speech, but they don't want people coming in and destroying property. He has talked to the Police Chief about this and is satisfied with what they have in place. They will not stand for violence in this community.

The City Clerk read comments made by Mr. Keith Drewett (attached to the original minutes).

## **6. CITY COUNCIL MATTERS**

### **A) NEW BUSINESS**

### **B) OLD BUSINESS**

#### **1) 2020 US Census**

**Please see the City website (covb.org) or 2020 census.gov for additional information.**

##### **a) 2020 Census form**

##### **b) PSA video (2020census.gov): What is the 2020 census? (30 seconds)**

##### **c) PSA video (2020census.gov): Is my 2020 census date safe? (30 seconds)**

**d) PSA video (2020census.gov): How do I take the 2020 census? (30 seconds)  
Requested by Vice Mayor Laura Moss, Vice Chair of the Indian River County  
Census 2020 Committee**

Vice Mayor Moss reminded the public that if they haven't done so already to please remember to turn in their census forms. She will be attending a Census Committee meeting next week. She then played three short PSA videos regarding the 2020 census.

**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) Veterans Memorial Island Sanctuary Bridge (\$130,000-\$240,000) – PW  
Project #2019-04**

Mr. Falls commented that the biggest asset to the City is Veterans Memorial Island Sanctuary and the bridge to the Island. The bridge has experienced substantial corrosion of the reinforcing steel in the bridge deck and other structural components. The 2020 bridge inspection performed by the Florida Department of Transportation (FDOT) identified that considerable deterioration has occurred since the previous inspection in 2018. FDOT has placed the bridge on a 12-month inspection cycle instead of the typical 24-month inspection cycle due to the poor condition of the bridge.

Mr. Neville asked about having to get a crane on the Island for the flag pole.

Mr. Matt Mitts, Public Works Director, reported that there are times that they have to get a crane on the Island. He expressed how important the bridge is for the Island.

Mr. Falls added that the risk they could run into is if they needed to get an emergency vehicle on the Island. He knows that this is a lot of money to spend, but because of safety reasons it has to be done.

Mayor Young commented that this is the second bridge that has been built at Memorial Island. He said that 10 years ago he was asked to be on the Veterans Memorial Island Sanctuary Advisory Committee and it was at one (1) of those meetings that he learned that the City owns five (5) bridges.

Mr. Brian Good, Kimley-Horn, provided two (2) options. The first option was to complete the full repairs to the bridge now at an approximate cost of \$240,000 and to continue future maintenance and replace the bridge entirely within 20 years. Option 1 provides an estimated total life of 95 years at an estimated cost of \$2,125,655. Option 2 would be to complete minimal repairs now at the approximate cost of \$130,000 and replace the bridge in its entirety within five (5) years. Option 2 provides an estimated total life of 80 years at

an estimated cost of \$1,399,600. Public Works recommends going forward with Option 2, the “minimal” bridge repairs, with an estimated construction cost of \$130,000 in the current fiscal year and full replacement of the bridge within the next five (5) years.

Mayor Young agreed that what is being recommended is the minimum.

Mr. Good agreed with doing some intensive repairs now and then moving forward with a full replacement bridge.

Mayor Young questioned what patch work would be done to get them through to the five (5) year point.

Mr. Good explained they would be doing protection on the north half of the bridge where the greatest steel protection is exposed. He said from the assessment they did this year and the one that was done in 2018, different things have been shown. In the assessment done in 2018, the FDOT report did not indicate structural steel loss. Then FDOT submitted their inspection this year and there was a considerable amount of deterioration that has occurred since 2018.

Mayor Young questioned if this patch work would get them to the five (5) year point.

Mr. Good said that it would, but he would also be recommending weight posting for the bridge. He said that FDOT has moved the inspections up for the bridge to annually.

The adopted budget for FY 19-20 is \$110,000. The Engineering Services will cost approximately \$7,280, leaving \$72,720 available for construction of repairs. The construction cost for Option 2 is \$130,000, which means \$115,000 from the New Sidewalk Construction budget will have to be transferred over to pay the additional expense.

Mr. Good said that they are looking for direction from staff and the Council on how they would like to proceed. He said that a lot has to do with protection.

Mayor Young said that the other downside from the prolonged option was the forecast for the estimated cost in 20 years.

Mr. Neville asked what was the escalation rate used in computing this.

Mr. Good said he used a 2% inflation rate.

Mr. Falls stated that with either of the two (2) designs once the bridge is constructed it will have a 75 year design life. He said while they did not get that with the first bridge they can be assured the new design will cover those discrepancies that they had. They also have it in this year’s budget to discuss in the three (3) to four (4) years capital projects so they won’t be waiting for the full five (5) years.

Mr. Neville commented that the bridge is not that old.

Mr. Good said that the bridge was constructed in either 1987 or 1988. He said that the age for a bridge such as this one's use is usually a 75 year lifespan so it has prematurely come to its near demise. Based upon his appraisal, he believes that there are two (2) things that have led to its rapid decline. The first is that it is in a fairly harsh environment and the other is that the bridge that was constructed has minimal coverage concrete over the reinforcement steel. The FDOT today would require two (2) inches of concrete cover over the substructure.

Mr. Brackett asked if culvert would be an option.

Mr. Good said they have looked at other options and other options come with downsides. If they do a box culvert or a three sided culvert it has to be done in a dry hole. So now they are looking at a temporary sheeting for the bridge, which is roughly 500 feet long. The cost of temporary sheeting so that he can prepare a dry hold would be substantial. He recommended a similar bridge like what they have for replacement.

Mr. Graves wanted to know whether or not the Code had changed since 1987 and whether or not they have any legal remedies against the contractor. He wants to make sure that they don't have this happen again. He does not know when they first noticed the premature wearing of the steel.

Mr. Good explained that the type of steel cover that they see for this bridge is what they would see for a precast parking garage. He said for a bridge in the environment that this bridge was constructed, his professional opinion would be those are not compatible. He knows today it would not meet the standards specified, but he cannot say if they were met in 1987 or 1988 when the bridge was constructed.

Mr. Turner said that he would look at this.

Mr. Graves suggested not using that contractor again.

Mr. Falls explained it was not so much the contractor, as it was the design.

Mr. Good added that usually the contractor does not have the latitude to change the design. They construct what a civil engineer will specify in the document.

Mr. Graves said that he was not trying to point blame. He just wanted the City to understand where this failure came from and what they can do to make sure that when they spend another million dollars on a bridge that it will last.

Mr. Neville commented that what is so unusual for the bridge is that it is so close to the water so it actually gets direct contact when the waves are up hitting it and it migrates through the concrete, which is probably what has happened. It has to be designed well so the bridge will last.

**Mr. Brackett made a motion to approve Option 2 in the backup material. Mr. Graves seconded the motion and it passed unanimously.**

**B) Leisure Square COVID-19 Closure/Membership “Suspensions”**

Mr. Falls explained that due to the COVID-19 pandemic, the Leisure Square Recreational facility was closed from March 16<sup>th</sup> to June 5<sup>th</sup>, totaling 81 days. As a result approximately 150 annual and/or monthly members effectively had their memberships “suspended,” since they were unable to use the facility even though they had prepaid for that use. He recommended that they add the appropriate amount of time to all the yearly and monthly Leisure Square gym and pool memberships that were suspended when they closed the Leisure Square facility.

Vice Mayor Moss said that sounds right.

**Vice Mayor Moss made a motion that the City add the appropriate amount of time to all yearly and monthly Leisure Square gym and pool memberships that were effectively suspended when they closed the Leisure Square facility. Mr. Neville seconded the motion.**

Mayor Young read a public comment that they received from Ms. Patricia White (attached to the original minutes).

**The motion passed unanimously.**

**10. CITY ATTORNEY MATTERS**

**A) Code Enforcement Case 16-CE-7189**

Vice Mayor Moss reported that she is running for County Commission and in this particular instance she has received a campaign contribution from this party. After explaining this to the City Attorney she has been advised that she should abstain from both the discussion and the vote on this matter (voting conflict form attached to the original minutes).

Mr. Turner reported that at the City Council meeting on August 20, 2019, an appeal was made by the violator at 2628 US Highway Investments, Inc. (“owner”) in which they requested for a reduction of the lien amount based on the fine imposed by the Code Enforcement Board of \$21,000. The City Council ordered that the amount of such lien be reduced to \$11,180.50, provided and conditioned upon the owner making capital improvements and corrections to the property in the amount of \$10,000.00 to be approved by the Code Enforcement officer within six (6) months of today’s date. If the owner fails or refuses to make such capital improvements of \$10,000 within six (6) months of today’s date then the entire amount of the lien (\$21,180.50) will be due and payable in full, and he (City Attorney) will be authorized to initiate lien foreclosure action against any and all properties, which are subject to such lien. The Code Enforcement staff recommends pursuing lien foreclosure for the full amount. He will follow Council’s direction of either

waiving failure to timely comply and accepting late completion and releasing the lien, or initiating lien foreclosure.

Mr. Brackett asked if the \$11,000 was paid. Mr. Turner explained that it was over a period of time and the last payment received was in February.

Mr. Barry Segal, Applicant's attorney, pointed out that there was a little confusion in that the meeting did take place on August 20, 2019, and the order was not signed until a month later and it is possible that his client was looking at six (6) months from the date of the order. He said that the work was completed within the time frame, and the last invoice was dated March 1, 2020, and the invoice has been submitted to Code Enforcement. The order itself only required that the work be completed within six (6) months and it doesn't actually require that the work be paid for, which would lead to a different kind of lien. He explained to the new Councilmembers that there was no magic to this six (6) month timeframe that was discussed. He said that this six (6) months was just the time period brought up by Council and they said they wanted to see the work completed within six (6) months. There was nothing significantly tied to that date and if it goes over a couple of days from that date he does not think that there is any harm to the City. He has a client who has taken this poorly maintained piece of property that he purchased and over time tried to upgrade it. He asked the City Council to agree that he was in compliance and the work was completed by the February 20<sup>th</sup> deadline. The documents that were 10-days late were of no consequence and that the lien be reduced by the amount of the work that his client did up to the \$10,000 and that the lien be reduced from the property.

Mr. Neville asked if the Code Enforcement officers are satisfied with the work that has been done.

Chief Currey recalled that he was in attendance at the City Council meeting filling in for the City Manager when this item was discussed. He spoke to Ms. Melody Sanderson, Code Enforcement Officer, who felt that the work should have been completed within the timeframe given. He said at the end of the day this is Council's decision. There is still concerns on that property that will have to be dealt with, but that is separate from what they are discussing today.

Mr. Neville asked again if Code Enforcement was satisfied with the repair work that they inspected.

Chief Currey explained that from Ms. Sanderson's view she is not satisfied. However, \$10,000 was spent in repairs. He said there were things done, but not within six (6) months. They did what was asked of them.

Mr. Turner stated that in full disclosure it is his understanding that there have been improvements made. There are some ongoing issues dealing with the property, but they are not related to the capital improvements.

Mr. Brackett commented that with all due respect their Code Enforcement Department does a great job. This was a unique idea that they came up with. It was to enforce part of the fine and put capital improvements back into the property. He has seen this building and it is old. This order that was placed on the property was an interesting concept and he liked it because it accomplished what they wanted it to. He understands that the completion of the work might have been a little late, but Code Enforcement should continue working with the property owner to make it a better situation.

Mr. Graves agreed.

Mr. Neville asked Mr. Segal to explain why it took so long to get this work completed.

Mr. Segal stated that he does not have first-hand knowledge of it. He knows that they were trying to prioritize the different projects and which ones they could do first. He clarified that this stemmed from an older tenant issue that had been resolved and the fine owed has been paid.

Mrs. Linda Hillman, Vice Chair of the Code Enforcement Board, reported that this case was originally sited in February 2016 and in 2017 it was still not compliant, then in 2018 it was still not compliant. It came before Code Enforcement in February 2019. They reduced the fine from \$41,000 to \$29,000. She has been watching this because it came in front of the City Council and they reduced the fine again by another \$10,000 for capital improvements. She told Council how IRS defines capital improvements. It is an addition or permanent structure, the restoration of some aspect of the property that will either enhance the property, prolong its useful life or adapt it to another use. She can't see why it took so long to get this work done. The City Attorney simply stated that a couple of garage doors were installed, which is capital improvement and the rest of the work went into landscaping and plantings. She said that is not permanent and is not according to the IRS a restoration of the building. She feels that Ms. Sanderson has done a wonderful job in trying to work with this tenant and each time he has basically ignored Code Enforcement and brought it before City Council hoping that the whole amount will be dropped and that they would be lenient. In her opinion if that happens the City Council might as well disband code enforcement. She asked why they are having Code Enforcement officers go out year after year and inspect this property, try and work with the owner who ignores the Code Enforcement officer. Then they have the Code Enforcement Board hear the case, go through everything that has happened. The Code Enforcement Board reduces the fine and that still was not satisfactory so the property owner comes before the City Council, who reduces it even more. In her opinion, the work still has not been completed. She said if you were to go by the property it does not look like anything was done. To uphold what the Code Enforcement officer has suggested would be the correct thing to do. She said to ignore it and let it go because supposedly because they are 10 days late with getting the fine paid is wrong because this has been going on for over four (4) years. She would be happy to answer any questions.

Mr. Turner commented that he does not believe that he said that the improvements were for new garage doors and landscaping. He knows that some improvements were made. He

said that Ms. Sanderson reported on this and gave some documents showing that there were garage doors and some other capital improvements and some landscaping that was done. He does not know if that is capital improvements or not. That would be Ms. Sanderson's call. He saw the before and after pictures of the property and there were new garage doors added and from her report there were other improvements made. He is not here to verify what was made or not made. He said that Ms. Sanderson had the receipts necessary to add up to the \$10,000 level, but she was concerned that the property owner had not completed the work in time. He agrees that there has been a lot of time to make these improvements and code enforcement has been working with them. He said that code enforcement is still looking at other issues on this property, but that does not involve this matter.

Mrs. Hillman commented that serving on the Code Enforcement Board is a voluntary position and the Council relies on the decisions from the Code Enforcement officer and from the Code Enforcement Board. She said to ignore this and let it slide by after four (4) years, she doesn't believe the property owner was trying to improve the property at all.

Mr. Neville asked if the current property owner is the same property owner throughout the duration.

Mr. Brackett said there was a tenant on the premises and the tenant is now gone. The property owner had to fight through the legal process to remove the tenant. He said that the Council has always backed code enforcement. They handled this case in a way that the property owner could put the money back into the property.

Mr. Graves told Mrs. Hillman that they appreciate the work that she does and that all their Board members do and the time that they put into serving on these Boards. He said it is probably thankless work. Then she attends their Council meeting and has more information about the case than the City Council does. To him as a new Councilmember it is hard to understand why certain decisions were made. He said he understands the history from the last four (4) years, but what is in front of them today is whether or not this agreement made by a previous Council was complied with. He said that the Chief of Police has told them that it was. He continued by saying whether or not 10 days is sufficient for them to say that they are going to charge them \$10,000 even though they did the work seems to be harsh. The Police Chief and Code Enforcement are satisfied that the work has been done. With regards to future code enforcement violations, the property owner will still be responsible to get them cleared up. He wanted to express to Mrs. Hillman that he hears what she is saying. However, what is before them today is whether or not because of the 10-day notice they will require the property owner to pay another \$10,000. He knows it is hard to get citizens to serve on their Boards and he appreciated Mrs. Hillman coming to their meeting today and also for her service on the Board.

**Mr. Brackett made a motion to accept this as resolving the matter and to direct the City Attorney to release the lien. Mr. Graves seconded the motion.**

Mr. Neville would like to amend the motion to say that the owner with all delivered haste complete all the remaining failures in the structure so that at some date certain they would reinstate the fine if in fact he fails to do so.

Mr. Turner told Mr. Neville that he could not do that. He said the amendment would need to be seconded, a vote taken, and then they would go back to the original motion.

Mr. Brackett said essentially what Mr. Neville is doing is tagging later issues that exist on the property and not the past issues. He said each violation should be standing on their own.

Mr. Turner explained that the issue today is whether to accept the work. He said either approve it and close this matter out and then release the existing lien. If someone wants to amend the motion that was made then they would be amending it to extend the time and request that other code enforcement matters be addressed and satisfied. Then this matter would not end and it would continue until a date certain.

Mr. Neville said that is what he wants to submit as an amendment to the motion. The amendment died for lack of a second.

**The motion passed 4-0 with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss abstaining and Mayor Young yes.**

## **11. COUNCILMEMBER MATTERS**

### **A. Mayor Young's Matters**

### **B. Vice Mayor Moss's Matters**

Vice Mayor Moss wished all the fathers a Happy Father's Day. She lost her father 20 years ago and there is not a day that goes by that she does not miss him. He instilled a lot of confidence in her based upon hard work. She could do anything, such as running for office and succeed. She thanked all the fathers in the community for doing good things.

Vice Mayor Moss reported that Mr. Adam Ogonoski, a young man, is having a Treasure Coast Food Bank Emergency Drive tomorrow at the High School. She said that registration is not required. People would just stay in their vehicle and the food will be available.

#### **1) Free Live Oak Trees Available at Audubon House! Press Release with details attached.**

Vice Mayor Moss said that anyone wanting a free Live Oak Tree to give to their father for Father's Day could get one from the Audubon House. She said that details can be found on the website at covb.org.

**C. Councilmember Brackett's Matters**

**D. Councilmember Joe Graves's Matters**

Mr. Graves thanked Mr. Neville for researching the crosswalks on A1A. He said this is an important issue and should be considered. There are very few places to cross on A1A and they can be dangerous, especially when they are in season and it is very busy. He feels this should be considered even if there is a cost to the City. He said the second issue is calming traffic in that area. He said if you are going 35 miles per hour, then you are going slow. He felt that also needed to be looked at. Again, he thanked Mr. Neville for bringing this up.

Mr. Graves commented on the roof at City Hall. He said that the roof needs to be replaced and it should be done. They don't need to have to worry about mold issues. Also, the carpet should be replaced. He hopes to go into the budget workshop with those things being taken care of. He will be going into the budget workshop supporting the Police and the protection that they provide to this City. They need to be paid well and have good working conditions. This is a great community that they live in.

**E. Councilmember Rey Neville's Matters**

Mr. Neville recalled that there was one (1) citizen who died because there was not a crosswalk on A1A.

Vice Mayor Moss thanked both Mr. Graves and Mr. Neville for attending the Metropolitan Planning Organization (MPO) meetings. They will find that it takes a long time for projects to get completed. In regards to the crosswalk, a road safety audit will be done. Again, she thanked them for attending the meetings.

Mr. Graves agreed that matters taken to the MPO have to go through a long process and it takes a while to get something like this done. However, the crosswalk on A1A is a pressing issue.

Vice Mayor Moss commented that the matter with increasing the length of the turning lanes over both of the bridges onto A1A came up and she wrote a letter to the MPO when she was Mayor in 2017 and it is supposed to occur in 2022. She just wanted to give an example that takes five (5) years just to lengthen a turning lane. She has said that she thinks that there should be a budget for things that are required within a shorter period of time, but she did not get any traction. She hopes that Mr. Graves and Mr. Neville will. They are both doing a great job.

Mr. Neville was thankful that his mother and father brought him to Vero Beach in 1950. It is a real privilege for him to sit in this position. He is concerned about the increase of the number of cases that there have been in the Coronavirus. They are now up to 236 in their County. If they are not careful it is going to get worse and they could fear another

stay at home option. He asked the public to do the right thing and they can survive this. He asked them to please be mindful and in a crowd put their mask on.

Mr. Graves asked about the County testing rate.

Mr. Falls said when he looked yesterday it was around 3%.

Mr. Graves agreed that they all needed to be responsible and wash their hands and distance themselves from people and don't take unnecessary risks.

Mayor Young agreed that they needed to use good judgement. He was happy that they did not have the situation that they do in Martin County.

### **13. ADJOURNMENT**

Today's meeting adjourned at 12:14 p.m.

/tb