

**CITY OF VERO BEACH, FLORIDA
JUNE 21, 2022 9:00 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Chris Kollmann with Lutheran Church of the Redeemer.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

PRESENT: Robbie Brackett, Mayor; Rey Neville, Vice Mayor; Honey Minuse, Councilmember; Bob McCabe, Councilmember and John Cotugno, Councilmember **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 7, 2022

Vice Mayor Neville made a motion to adopt the June 7, 2022 minutes. Mr. McCabe seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Vice Mayor Neville pulled item 3-C) off of the consent agenda for discussion.

Mr. McCabe made a motion to adopt the agenda as amended. Mr. Cotugno seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

3. CONSENT AGENDA (include amount of expense)

A) Grant of Electric Utility Easements to Florida Power & Light (FP&L) #2022-EG-271 Northern Portion of Airport for Pole Relocations #2022-EG-272 Portion of Airport Parcels 4B and Parcel 5 for New Service

B) Memorandum of Lease and Lease Agreement between City of Vero Beach and Treasure Coast Storage Vero, LLC (Parcel 17)

C) Memorandum of Lease and Lease Agreement between City of Vero Beach and Treasure Coast Storage Vero, LLC (Parcels 3 and 14D)

Vice Mayor Neville commented that this is a piece of property being leased at the Airport that is under consideration of being combined with another lease and the lease time will be extended. He thinks that most people know if they have a chain link fence that there needs to be vegetation aground it up to the height of the fence so that it obscures what is behind it. He showed some pictures of this site. There was storage of vehicles outside of the fence area. He felt that looking at the site facing Aviation Boulevard was very unsightly. He encouraged the Airport staff and Code Enforcement Department to keep an eye on issues like this one. He requested to either put in the actual lease agreement that the lessee must comply with their Code or have staff handle the situation and engage the Code Enforcement Department if necessary.

Mr. Monte Falls, City Manager, did not think it was necessary to place this matter in the lease. He said that the Airport staff would work with the tenant in bringing the site plan into compliance. If that does not work then they would take the route of code enforcement.

Vice Mayor Neville brought up the AT&T facility across the street from this location and said that site looks unsightly also. He asked the Airport staff to be in contact with the AT&T tenant and ask them to spruce up their site as well.

Mrs. Minuse asked if the Florida Aviation Administration (FAA) or Homeland Security have any requirements at this point in time for landscaping around the Airport.

Mr. Todd Scher, Airport Director, explained that FAA and Transportation Security Administration (TSA) do have some requirements for security fencing, but only as it relates to the actual perimeter fencing at the Airport. The other parcel outside of that security fencing there are no requirements.

Vice Mayor Neville made a motion to approve the Memorandum of Lease and Lease Agreement between the City of Vero Beach and Treasure Coast Storage Vero. Mrs. Minuse seconded the motion and it passed unanimously.

Vice Mayor Neville asked that this be brought back as a follow up in a month or two so they can see what progress has been made on the property.

- D) Approve Final Payment to Tadeos Engineering, LLC for \$42,229.65 for Contract #75-2020 for the Conn Beach Boardwalk Repair**
- E) Award of Bid to Redevelop Commercial Park Phase 1 Fencing (FDOT #448085-1, A&B Fence \$54,961)**
- F) Patrick Leahy Bulletproof Vest Partnership Grant (\$2,662.38)**
- G) Extension of Disaster Debris Removal and Management Contracts (no cost unless activated)**

Mr. McCabe made a motion to approve the consent agenda as amended (item 3-C pulled). Mr. Cotugno seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) An Ordinance of the City of Vero Beach, Florida; amending the Land Development Regulations by Amending Chapter 70, Subdivisions, to update the Procedures for Lot Splits, Lot Line Adjustments, Subdivision Platting, and right-of-way abandonment; add or revise definitions; revise the criteria for re-subdivisions, lot splits, and right-of-way abandonment; add a privilege fee for right-of-way abandonment; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning Director**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning Director, reported that this Ordinance amends Chapter 70 in the Code for subdivisions. It improves and clarifies the City standards for lot splits and lot line adjustments. It adds new procedures and criteria for requests to abandon the right-of-way by adjacent property owners. Staff reviewed the Ordinance and agreed that it addresses a demonstrated community need and is consistent with the public's interest. It provides clarified standards for lot splits and minor lot line adjustments to parcels in the City and is a transparent process to review requests to abandon right-of-ways in the City. It is consistent with the Comprehensive Plan and is consistent with the purpose and intent of the zoning districts in the Code and would ensure efficient development within the City. The Ordinance provides criteria for lot splits and minor lot adjustments. The Planning and Zoning Board held a public hearing on May 5, 2022 and voted 4-0 to approve the Ordinance.

Vice Mayor Neville made a motion to approve the Ordinance. Mrs. Minuse seconded the motion.

Mayor Brackett opened and closed the public hearing at 9:46 a.m., with no one wishing to be heard.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

- 2) An Ordinance of the City of Vero Beach, Florida, amending the Text of Chapter 5, Coastal Management Element, Goal, Objectives, and Policies; amending Policy 2.8, Objective 2, Boat Facilities and Boat Ramp Siting and**

Construction; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning Director

The City Clerk read the Ordinance by title only.

Mr. Jeffries reported that this Ordinance is to amend the text of the Comprehensive Plan, Coastal Management Element, Objective 2, Policy 2.8, to modify the language which restricts roofed structures for boat slips over surface waters. This was based on an inquiry from a property owner noting the inconsistencies in the City's boat cover regulations with Indian River County and the Florida Department of Environmental Protection (FDEP). Since this is a Comprehensive Plan Text Amendment, it will follow the Expedited State Review Amendment Process of the Florida Statutes and requires two (2) legislative hearings. The first public hearing, which is what they are conducting today will transmit the amendment to the State reviewing agencies. The adoption hearing of this Ordinance is held after the State reviewing agencies have had 30 days to comment on the amendment's potential impact to State or regional resources. The second public hearing for adoption of the Ordinance is tentatively set for September 6, 2022, when the State reviewing agencies have provided their review comments. The Planning and Zoning Board held a public hearing on May 5, 2022 and voted 4-0 to approve the Ordinance.

Mrs. Minuse recalled when both hurricanes Francis and Jeanne came through she lived in Vero Isles at the time and had a boat and saw what happened with many of the boats and where they ended up. She asked once they get the transmittal back from the State agencies will Council be addressing the permitting and zoning at that point.

Mr. Jeffries answered yes. He said that the Florida Building Code still does apply in allowing these dock covers so they are already applying standards for the building code, but they can always go stricter if they want and that will be looked at when they do the Land Development Code.

Mrs. Minuse wanted to assure people that this was something that they were addressing.

Mr. McCabe brought up having the roof, but not requiring a size.

Mr. Jeffries said that would be the standard if they look at what the County does. He said if it is enclosed then it would be a structure, which is not allowed. The covers would protect the boats over the top which is why FDEP is allowing boat covers.

Mr. Cotugno asked will existing structures have to conform to the new set of rules and regulations or are they going to be grandfathered in.

Mr. Jeffries explained from what he understands, there were between six (6) and eight (8) people who put boat covers up without permits. He is aware of one (1) structure that was built as a boat house on Live Oak and that particular structure is illegal because an existing house was torn down and the house was rebuilt, but they left this non-conforming structure over water as part of their site plan.

Mr. Falls asked Mr. Jeffries if someone had a structure that was not legally approved at the time and it exists now could that person get an after the fact permit process at the Building Department if their project met the current Code.

Mr. Jeffries said that could be done as long as all the current standards were met.

Mr. John Turner, City Attorney, asked if these standards would go to the Planning and Zoning Board for their review.

Mr. Jeffries answered yes. He said right now they are amending the Comprehensive Plan so that this will be allowed and once that is adopted then he will go through the land development text amendment process. The City will be completely revising their current boat dock regulations.

Mrs. Minuse made a motion to approve the Ordinance. Mr. McCabe seconded the motion.

Mayor Brackett opened and closed the public hearing at 9:56 a.m., with no one wishing to be heard.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

- 3) An Ordinance of the City of Vero Beach, Florida, related to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2021 and Ending September 30, 2022; Providing and Establishing Revisions to said Budget based on Revised Revenue and Expenditure Estimates; Providing for an Effective Date. – Requested by the Finance Director**

The City Clerk read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, reported that the purpose of this budget amendment is to update the projected revenues and expenditures as follows: 1) General Fund and Stormwater Fund to utilize \$500,000 of the City's American Rescue Plan Coronavirus State and Local Fiscal Recovery Funds allocation as General Fund revenue replacement and transfer the resulting \$500,000 in available funds to the Stormwater Utility for Stormwater capital projects; 2) As directed by City Council on April 5, 2022, to appropriate \$1,000,000 from the City's General Fund Capital and Infrastructure reserves for donation to the Jimmy Graves Foundation in support of their planned capital improvement project and 3) Solid Waste Fund – to increase the funds appropriated for this year's solid waste vehicle purchase by \$90,000. Due to supply chain issues, there is a shortage of Solid Waste vehicles of any type available for purchase. This increased budget allocation will allow the Solid Waste utility the flexibility to purchase either a rear loader or a front loader, based on first availability.

Mayor Brackett stated that the correct name is the Jimmy Graves Complex and not the Jimmy Graves Foundation.

Ms. Lawson said she would change the line item to reflect that.

Mr. Cotugno thought that it was the Jimmy Graves Community Complex.

After further discussion the appropriate name is the “Vero Beach Community Complex.”

Mr. Cotugno questioned if they would be discussing what they would be spending the ARP money on going forward at budget time.

Mayor Brackett said that they would. He said that \$500,000 of the ARP money is being transferred to the Stormwater Utility for Stormwater capital projects.

Ms. Lawson expressed that the money out of the ARP funds needs to be spent on the spirit that it was intended for.

Mayor Brackett opened up the public hearing.

Mrs. Susan Mehiel stated that she has spoken to many municipalities over the last 30 years on many topics and has also observed many municipalities, county commissions, school boards, but she has never seen a municipality vote twice to give away a million dollars of taxpayer’s money without it first being listed as a specific line item. She understands that the money may not be sent out tomorrow, but it just seems to her that if they are going to continually vote for this donation that they might be really clear with the people that they are doing this and exactly where the money is going to come from so there are no questions. This reminds her of the Children’s Resources Taxing Authority, which sounds like a good thing, but still let the people decide, which is what they were going to do. She sees things talked about here like the money they received from the electric proceeds and she does not know who could tell them exactly what was received and how much is left right now. They toss around money, such as the money being used for the Marina project, which is now three (3) projects and who knows what the final bill will be for those three (3) projects to the taxpayers. There is not enough money for the Stormwater abatements so they raise taxes. She knows for a fact in a couple of years that once this high speed railroad is finished the City’s crossing maintenance fees will probably double. She asked how many more expenses can they isolate and look at that they are going to need down the road. She said instead of tossing out a million dollars to their friends and supporters why not make it a half-million dollars and take the other half-million dollars and put it towards things like a new lifeguard tower or some other facilities that people are using now. They can always donate to this project down the road, but what is the rush to do it now. The campaign project hasn’t even started yet. She doesn’t mean to rain on any child’s parade and she thinks that it is a great project, but they need to figure out how many dimes they have to give away and what they need in their rainy day fund before they start tossing out the cash and letting the next person who is in their seat figure out how everything is going to be

paid for. If any of them plan to run for their seat again she would suggest that this is not a good example of transparency management.

Ms. Lawson commented that she has had some recent questions about the electric system sales proceeds. She said if they look in the City's audited financial statements since the year they sold the electric utility under the notes section they will see what is called Fund Balances Governmental Funds. She said when the City sold the electric utility the City Council at the time formally adopted a Fund Balance Policy and set aside those funds for very specific purposes under Resolution 2019-21. She said there is an accounting process done every year of what exactly the balance of those funds is at the end of each fiscal year. The audited financial statements are available on the City's website. She said this City Council and City Councils before them did a good job of taking the money they received from the electric utility sale and leveraging it to mitigate some of the issues that they had and responsibly set a very large portion of the money in reserves.

Mayor Brackett commented that he was on Council when this was done and there was also money set aside for hurricane preparedness, etc. He agreed that this Council and Councils before them have done a good job with these funds. The way he looks at the Community Complex is that the City cannot maintain a Park of 13 acres and have a Park fully built for a million dollars. This will be a huge asset for City and County residents and will be a great facility.

Mrs. Minuse asked Ms. Lawson if moving ahead with this now will provide her to have a budget item with nothing being final. She said if Council sees there is a shortfall they can discuss it.

Ms. Lawson explained that this budget line item is very specific. There will be no expenditure of funds until something comes before Council (an agreement) that says who will get the money and what the requirements are for that expenditure. She said an appropriation is not an expenditure.

Mr. Ken Daige read a prepared statement into the record (attached to the original minutes).

Mr. McCabe made a motion to approve the Ordinance. Vice Mayor Neville seconded the motion.

Mayor Brackett closed the public hearing at 10:17 a.m., with no one else wishing to be heard.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

B) RESOLUTIONS

- 1) **A Resolution of the City of Vero Beach, Florida, Amending “Attachment B,” which is also known as the Standard Lease Provisions for Airport Tenants, a copy of which is attached hereto and incorporated herein; Repealing the “Attachment B” Adopted Effective February 16, 2016; Providing for Repeal of Conflicting Resolutions and Airport Policies; and Providing for an Effective Date. – Requested by the City Attorney**

The City Clerk read the Resolution by title only.

Mr. Turner reported that this is regarding the Standard Lease Provisions for Airport leases, which is known as “Attachment B.” He said the last time this was updated was February 16, 2016. Staff feels that there have been a lot of new regulations initiated by FAA on lease terms, as well as some updated information needed for the existing terms in Attachment B. They put together a new updated Attachment B for Council’s consideration. This was presented to the Airport Commission last Friday and they voted to recommend adoption to the City Council. He amended one (1) section on page 14, (c), where he added *and parking areas also include and shall meet all present and future requirements of the City Code*. He also cleared up some typos. He said this would be the new document that will be attached to future Airport leases and reduce the need for the huge leases that they have had in the past. The leases will be prepared for each individual tenant based upon the tenants needs and requirements of the Airport and Attachment B will be included with all the leases.

Vice Mayor Neville commented that Council did not receive this document until late yesterday via email. He questioned in the section of Attachment B that deals with an 8 to 12% change, which does not include what criteria is used. He asked for an explanation.

Mr. Todd Scher, Airport Director, explained that FAA gives them some guidance as it relates to leasing (page 4 of Attachment B). They give some guidance on how to negotiate or the acceptable range of negotiations for the lease terms and their range is 8 to 12% of the appraised value of the property becomes then the annual lease rate for the property is adjusted annually by CPI.

Vice Mayor Neville asked Mr. Scher if there was a criteria that he used to determine this.

Mr. Scher said that there is criteria. He said if they are talking to an existing tenant who has been on the Airport a long time, or a business who has had a good payment record with the Airport these things will be taken into consideration, as well as the value of the improvements being made to the property.

Vice Mayor Neville asked if someone has done improvements to their property would they be given a lesser amount for their lease.

Mr. Scher explained if there is going to be substantial improvements to the property then they probably would negotiate that rate down to make it more of an incentive for that developer to continue with that development.

Mayor Brackett added that the Airport is leasing the land and not leasing the structure. He said a lot of the Airport tenants own their structure, but not the land.

Vice Mayor Neville asked if when the lease terminates and the lease is renewed does it constitute the Airport owning the structure.

Mr. Scher said that it does and that comes into play at the renewal period when the buildings have reverted to the Airport. The evaluation or assessment of the property is higher because of the buildings and they do try to negotiate the rate based on that. He said one of the reasons they have to be flexible is because sometimes it is difficult for someone who is trying to lease property than to someone who is selling property. There are a lot of people who would rather spend their money on something that they are going to have forever instead of a 30-year lease with two (2) 10-year options. There are times when they do need to offer some sort of incentive for a person who is going to lease property from them with an understanding that at some point in time it will revert back to the Airport.

Vice Mayor Neville questioned if this is just a renewal.

Mr. Scher said that it could be either.

Mr. Turner explained that at the initial term in the start of a lease it will not be applicable. It is at the point where it is at the option to renew and when the lessee asks for an option to renew. He said that is when they make the adjustment pursuant to FAA requirements.

Mayor Brackett asked when someone is given the option to renew does the City now own the building.

Mr. Turner explained that some leases provide for that and some of the leases continue with ownership being with the lessee until the lease is over with and includes all option periods. He said that is when it reverts back to the City.

Mrs. Minuse asked if when they amended Attachment B does it now meet all the requirements of the City Code for stormwater.

Mr. Turner answered yes. He said the lessee has to comply with all City Ordinances and Codes.

Mr. McCabe made a motion to adopt the Resolution. Mr. Cotugno seconded the motion.

Mayor Brackett opened and closed the public hearing at 10:27 a.m., with no one wishing to be heard.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

- 2) **A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation for a Project entitled “Rehabilitate Terminal Building Phase I” (FDOT #449614-1-94-01): Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the Airport has coordinated with FDOT to receive grant funding to rehabilitate the terminal building located on Airport property. The scope for this includes upgrades for lighting systems, roof repairs, terminal passenger facility upgrades, office upgrades and safety enhancements in and around the facility of the terminal.

Mayor Brackett asked that it be clarified what construction are they talking about.

Mr. Scher explained that at this point in time with this project they have a wish list. He said before they spend too much time in deciding what parts they are going to include in the actual scope of work they want to make sure that they receive the grant then they will start to prioritize the items that they would like to have done, which are maintenance items.

Mr. McCabe made a motion to adopt the Resolution. Mrs. Minuse seconded the motion.

Mayor Brackett opened and closed the public hearing at 10:31 a.m., with no one wishing to be heard.

The Clerk polled the Council and the motion passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

5. PUBLIC COMMENT (3-minute time limit)

Mrs. Barbara Ruddy commented that a couple of weeks ago she attended the Vero Beach Film Festival held in the downtown area and noted that the streets and sidewalks could use a good pressure washing. There are some pavements broken that need to be replaced, as well as grass growing in between the cracks. She would love to see some flowers and colors in that area. They also should work with the businesses along the street and find out what they would like to see.

Mrs. Leslie Tilley spoke about the Marina expansion and said that she did not want central beach to be corrupted. She has not been given any valid evidence for the dry storage. She wanted everyone to stay in harmony with their neighbors. She encouraged Council to

reduce the size of the boat storage to around 8,000 square feet because it would make sense. She said lets remember the impact this will have at the end.

Mr. Ken Daige commented that he took a walk downtown on the north side of Route 60 and the west side of 14th Avenue and it is pretty sad. He said the sidewalk is dirty and weeds are growing in the cracks. The flower beds are loaded with weeds and are in disrepair. With the lighting the City owns there are rusted poles, light shields are sloppy, the hanging baskets with flowers have holes in them. He asked why does downtown look like this. He walked further to the north where the Rotary fountain is located. The fountain is dirty, green and grass is growing up around it. To the east there is a big homeless group that hangs out there. Further down in Pocahontas Park there are tiny children playing there and the homeless visit the bathrooms and are lying on the benches. Some of the wooden benches are split. He knows that people donated those benches to the City and no maintenance is being done because there is no money to maintain them. He questions why the City gave one-million dollars towards the new complex. He expressed that downtown is the heart of Vero Beach. He asked to please put some money aside at least to have a Police Officer walk the sidewalk. The City Council needs to do something. He would be happy to take each one of them downtown for them to observe. He will show them what he is talking about. He asked them to work it out in the budget to have extra money for a Police Officer to walk the beat downtown.

Mr. Taylor Dingle thanked the City Manager and the Public Works Director for getting FDOT to do some maintenance on the wall near Oakmont Park. When he was campaigning last year there were people that shared with him that the wall was in a state of disrepair and had graffiti written all over it and needed to be cleaned up. He is happy to say that has been done.

Mr. Joe Coakley, Vice President of Main Street, commented that he had no idea so many people would be talking about the downtown area at today's meeting. He said that there is a serious problem there. He said there is a big problem with the people who have taken residency downtown on the area benches. He knows that Council realizes this is a problem, and federal law prohibits movement of these people. He was wondering if there was a way they could engage the Health Department to see if they have some influence in moving these individuals. There are people coming downtown who would like to be able to sit on these benches, but cannot because there are several people who have made these benches their home. He felt that they needed to do something and maybe calling the Health Department about this being a health issue was the answer. He asked Council to please use their influence and power in calling Miranda Hawkins at the Health Department. He thanked the City Manager in helping Main Street to accomplish a lot of things in downtown. He felt that they were making some headway. He asked for their help in moving forward. It is unpleasant to walk downtown and see that the sidewalks are dirty and there are cigarette butts all over.

The City Attorney said that his office is preparing an update for discussion and may ask for a workshop on how to deal with individuals who hang out in Parks, sit on public benches

and occupy space. He said this is in the works and as soon as he has completed his research he will be giving the City Council some advice and making some recommendations.

Mrs. Minuse commented that the City is aware of these problems and staff is looking for solutions. She complimented on how well the Panhandling Ordinance has worked.

Mayor Brackett commented that there have been a number of discussions about what is happening in the downtown location near Pocahontas Park, but their hands are tied. He doesn't want to see the benches destroyed because his father started the program and he has a lot of time and money invested in those benches. He encouraged the public when they see someone doing illegal activities to call the Police Department. He said they need to be a part of the solution. He said that his staff calls the Police Department on a regular basis.

Mr. Falls added that they are in the process of taking some of benches out in the area north of the Rotary fountain to do some pressure cleaning and staining on them and then they will bring them back. He is working with the Brackett family in coordinating this.

Vice Mayor Neville thanked the Mayor for his family doing this. He said it has enhanced their community.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be held on July 19, 2022 at 9:00 a.m.

- A) A Resolution of the City Council of Vero Beach, Florida, Repealing Resolution 2013-15 and Adopting a Revised Fee Schedule for Development Review Applications and related services; and Providing for an Effective Date. – Requested by the Planning Director**

The City Clerk read the title of the Resolution by title only and announced that the public hearing would held on July 19, 2022 at 9:00 a.m.

8. CITY CLERK MATTERS

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

- A) Lifeguard Stand Replacements for Jaycee and South Beach Parks, to cost approximately \$155,000.00 to \$235,000.00**

Mr. Falls reported that this item is discussion of the lifeguard tower for South Beach Park and Jaycee Beach. He took this matter to Council in February with a recommendation to purchase these towers from a company located in California who constructs these type of towers. At that meeting Council directed staff to go back and do some research to find out what it would entail to have the towers custom designed and then built like towers that appear at some of the other beaches along the Treasure Coast. Staff did that and learned that the architect's fee would be somewhere in the \$20,000 to \$25,000 range and the price would be estimated at around \$100,000 per tower. He confirmed with the City of Miami Beach that their last tower that they built cost around \$100,000 and they expect the next tower to cost more. He has put together two (2) options for them to choose from. They can either proceed with the purchase of the lifeguard towers from IDR, at the newly quoted costs for manufacturing and shipping, which is a cost of up to \$155,000.00 or proceed to have DEB, another architecture firm, who designs towers for beaches, at a cost of approximately \$20,000 to \$25,000, and then proceed to have the designs built by a to-be-determined manufacturer at an estimated cost of \$100,000.00 per tower. The price for the tower from IDR includes the transportation and they will look to see if that cost can be brought down by utilizing the existing ramps and look at the stainless still structures that they are mounted on.

Vice Mayor Neville showed on the computer a beach tower that Miami Beach has. It defines their beach community and he wanted the City of Vero Beach to be able to do something very similar. He realizes that financially they are not in the position to do this so he is going to put out an appeal to the architects and engineers and also the builders who might want to participate in trying to get a project like this equivalent in cost of what they would have to pay or if they would have to buy the plastic towers. He finds the plastic towers unattractive and unappealing. Having a nice tower like what they have in Miami would be a huge asset to their beaches. He said if there is someone that would like to donate their time and reduce their profit on the construction on a project like this to call the City Manager. He asked the City Manager to give them about a week to 10 days for someone to contact the City.

Mr. McCabe asked if they want to table this item and then bring it back in two (2) weeks.

Mr. Falls explained that if he is contacted from someone interested in constructing the tower he could bring that back to Council. If not he would hate to have to delay this any longer and have the price of the tower continue to rise. The quote they were given is good until July 6, 2022.

Vice Mayor Neville said if they get no viable proposal with a real opportunity to do something locally then they would proceed with the original proposal before the deadline expires.

Mr. Falls felt that would work. If they do have someone that is interested and brings them back a viable offer then they could consider it.

Mr. McCabe said that they need to be more specific. Is it less than or equal to \$155,000.

Mr. Cotugno asked what is the difference between what the “iconic” tower and what the “fiberglass” tower costs. He was told it would be around a \$90,000 difference. He said they do have some allocated funds as they get into the budget session and if they believe going with the fiberglass structures is not what they want to do and they want to take \$90,000 out of unallocated resources to create something that would be iconic for their community then why don’t they consider it.

Mr. Falls commented that if they could get someone that would come forward and say that they are interested in constructing the tower they could go that route, but if not his suggestion would be to replace the towers at South Beach and Jaycee Beach. Then down the road they have another tower at Humiston Beach that needs to be replaced and that might be the appropriate location to have an iconic tower located at. He would like to have the flexibility to move forward with the other two (2) towers and then they will look to see what they can do at Humiston Beach.

Mr. McCabe made a motion to approve the \$155,000 for the tower giving 10 days for someone to come forward and the price has to be equal to or less than \$155,000. Mrs. Minuse seconded the motion.

Mr. Ken Daige stated that he was in agreement with purchasing the two (2) towers because it is a need for the beaches now. However, going forward and having something “cool” for the Humiston Beach area they could make it like a community project. If they have the plans on how they want it built and all the specs it could probably get done. They could bring the community together to build it. He hoped that Vice Mayor Neville would spearhead this and move it into a community project.

Vice Mayor Neville commented that this is an appropriate expenditure to come from their tourist tax revenue and he doesn’t understand why the County thinks that they shouldn’t be deserving of that. He doesn’t know why they can’t work in a partnership with the County to get things done.

The motion passed unanimously.

B) Stormwater Intake Station and Filtration System Project (ITB-110-22) and Purchase of Vertical Turbine Pumps (ITB-090-22) Bid Award

Mr. Falls reported that this is the kickoff for the project that Mr. Bolton came up with to take irrigation water out of the canal and repurpose it and go across the river to be used instead of reuse water. He said that they have changed the design of this system in order to stay in budget and St. Johns River Water Management District (SJRWMD) has endorsed the plan.

Mr. Rob Bolton, Water and Sewer Director, stated that he went out to bid on this project in August and the bids came in over a million dollars too high. So he went back and cut some of the frills and changed some of the things to try to find items that they could cut

some things out of the project in order to bring the costs down. Then he went out to bid again and this time they were still over a million dollars too high because of construction. At this point he went back to some old ideas that he was originally thinking about for this project. He went over some history and said that he was able to look at the piping, as well as other things and figured out a way to get rid of some of the big tanks and utilize the electric that is inside the building and replace the pumps with newer pumps, which will save roughly a million dollars. The cost is still above their original two million dollar estimate and will run probably about two and half million dollars and not three and half million dollars that was expected. He said this will actually be a better system than what was originally planned because there will be storage on site and flexibility on how they pump water over to the barrier island.

Vice Mayor Neville asked Mr. Bolton how he would make up the difference of half a million dollars. Mr. Bolton said it would be a subsequent budget amendment to do the work.

Mr. Falls said this is the kickoff for this project and they look forward to getting this done.

Mr. Bolton added that he is hoping by the end of the year to go out to bid and the whole project is scheduled to be finished by July 2024.

Vice Mayor Neville made a motion to approve the Stormwater Intake Station and Filtration System Project and the purchase of the vertical turbine pumps. Mrs. Minuse seconded the motion and it passed unanimously.

C) Orenco Systems, Inc., STEP Equipment Supply Contract, P-15-2018 “Not to Exceed” amendment from \$375,000 to \$650,000

Mr. Falls explained in this request Mr. Bolton is asking to go above the authorized amount allowed for the STEP System so that he can continue moving forward. He asked Mr. Bolton to explain why he was asking for this.

Mr. Bolton explained that due to worldwide supply chain issues, lead times on Orenco products have increased exponentially and continue to do so. Therefore, he is requesting an increase to the “not to exceed” limit from \$375,000 to \$650,000 in order to place an immediate equipment replenishment order. This will prevent lapses in the STEP System availability to customers. This amendment will allow for the purchase of 40 Prelos units and 60 traditional pump packages. He said that his employees get the tanks ready and the contractors come and pick them up. He said at one time they were backlogged by 75 tanks.

Mr. Falls commented that this is a project that helps the quality of water in the Lagoon. He expressed that the City is doing a lot to help the Lagoon and they are not issuing any new septic tank permits.

Mr. McCabe made a motion to approve the “not to exceed” amendment limit from \$375,000 to \$650,000 for Contract P-15-2018. Mr. Cotugno seconded the motion and it passed unanimously.

10. CITY ATTORNEY MATTERS

A) Defendant City of Vero Beach’s Disclaimer

Mr. Turner asked Council to approve filing a notice of disclaimer on a piece of property that is subject to a mortgage foreclosure in a lawsuit initiated by Nationstar Mortgage. On this property the City has a code enforcement lien, as well as other defendants who had liens on the property. He filed an answer asking that if there are any access funds after the sale of the property and payment of the mortgage that the City should be able to participate in the action. He said it turns out the value of the property is much less than the amount of the mortgage by about \$50,000 and the City’s lien is around \$12,000. He said together with the other lien claimants there is no reason to proceed in this litigation any further. He requested from Council that they file a disclaimer saying the City does not claim any interest in the property and Nationstar Mortgage may proceed with the foreclosure action and the City will not be a party.

Vice Mayor Neville made a motion to allow Mr. Turner to file a disclaimer saying the City does not claim any interest in the property. Mrs. Minuse seconded the motion and it passed unanimously.

B) Briefing on Conflict with Indian River County regarding the Tourist Development Tax policy

Mr. Turner briefed Council on the Tourist Development Tax system that is in existence. The County has adopted a policy which prevents municipalities from filing applications for Tourist Development Tax Funds, which are authorized under State Law. The individuals who pay Tourist Development taxes on hotel rentals and short term rentals the funds go to the State on behalf of the counties and then the State refunds the money back to the counties. The City adopted the Tourist Tax assessment matters in 1987 and the City is designated as Division 1. There are two (2) Divisions in the County. The City of Vero Beach contributes over half of the amount of tourist development tax collected in the County. The remaining part of the County is Division 2. Several years ago the City started its application process for a couple of projects. One being at the Airport and the other was for the Centennial Event. Those applications for funds were rejected. Then the City was interested in having some lifeguard stands at Humiston Park and wanted to use tourist development taxes to fund the project. It wasn’t until recently that the Board of County Commissioners initiated a policy rejecting giving municipalities tourist tax dollars. He said that this was after the Tourist Development Council encouraged staff to apply for the funds. The City took the application before the Tourist Development Council and they rejected it saying that the outside agency of the County was not to accept applications from municipalities. The City asked the Board of County Commissioners to change this policy at their meeting last week (June 7, 2022). He attended that meeting and asked the County

Commission to reconsider and set aside this policy to accept applications from municipalities. He also took a court reporter with him to the meeting. The reason he took a court reporter to the meeting was because it has been his experience that what is said at the Board of County Commission meetings is not always translated in full in their minutes. He wanted a complete record of what was discussed at that meeting. When he got up to address the issue he felt like a target. There was an attack made on him by the County Attorney as to how this matter came about and how it was presented to the Board of County Commissioners. He explained the needs of the City to the County Commission and that the City was interested in partnering with the County on the tourist development tax and the County Commission explained why their request was unreasonable. He explained to them that to his knowledge this is the only County in the State that does not accept applications from municipalities for tourist tax funds and the County said we are different and you can't tell us how to spend our money. After over an hour he left and the motion/request was denied. He decided to present a few options to this Council on what they can do. He said they contribute over half of the money and he agrees that it comes from tourists and short term rentals, but it is money listed in the State Statutes on what it can be used for. There is nothing that says municipalities cannot apply for this funding. There is nothing in the State Statutes that says counties can bar municipalities from applying. He said this is very frustrating. This issue has been going on for over a year and they are getting no cooperation from the County. He said there are several things that they can do. They could declare that they are in a conflict with the County over the interpretation of the State Statute and ask that a Chapter 164 meeting occur. They could also go to their State Legislature and ask them to address this by changing the State law under the Tourist Development Tax. Ask that municipalities be recognized as organizations that can file applications for these funds. He is not saying that they have to be granted, but at least should be able to participate. They could partner with other municipalities in the County and approach the County as a unified body saying they want to be recognized on the same level as the baseball commission, museums, historical society, etc. He said they could also consider withdrawing from the Tourist Development Tax under the law. He said it is not easy and he was not recommending it, but wanted Council to be aware of it. They would have to obtain petitions and have the matter placed on a referendum. They would also have to take some other action if that occurred for funding beach restoration. He said the County kept repeating that the City does receive funds for beach renourishment. He appreciates that and expressed that the County also receives millions of dollars from the State to do renourishment of the beaches. He said they are in this together with the County and other municipalities and this is a great opportunity to use funds provided by tourists to create more of a draw for more tourists to come here.

Mayor Brackett stated that it would be his recommendation to Council to work and better their relationship with the County. He does not think that they need to go to Chapter 164, they just need to focus on changing the environment as much as they can. He sits on the Tourist Development Council and there are not many times that a municipality would qualify to receive funds, but there are times that they do qualify and beaches are one of them. The County does do the beach renourishment and the City appreciates that. He said lets continue to let our voices be heard and find out how the other municipalities feel about it.

Vice Mayor Neville asked Mr. Turner if he was able to get a response from the County Commission as to why they established this policy.

Mr. Turner said that the County Commission did not want Tourist Tax money used for infrastructure projects.

Mayor Brackett expressed that the Tourist Tax Development Council recommended this policy to staff, but it did not come to the Tourist Tax Development Council since he has served on the Committee. He was told that 2018 was when the recommendation was made and the County Commission is just now acting on it.

Vice Mayor Neville commented that they have this tourist tax so they can mitigate some of the taxpayer's expense that people pay by ad valorem taxes in supporting their tourist industry. But, here they are building a lifeguard stand that helps bring people to their beaches and helps keep tourists safe while they are at those beaches and at the same time they are going to have to use their own taxpayer's money in doing that as opposed to using tourist tax dollars that was fully intended for this purpose. He would think that the Taxpayer's Association would find this interesting and might want to take this up as a matter of consideration that the City cannot benefit from this revenue.

Mr. McCabe asked Mr. Turner if his interpretation of the Statute is that things like the lifeguard tower are eligible under the regulations.

Mr. Turner said yes that his position. He said that lifeguard towers can be paid for under the State law using these funds.

Mr. McCabe agreed with talking to the different surrounding municipalities was the way to go.

Mr. Falls said he would be meeting with the City of Sebastian in July and he can say on a staff level that the City of Sebastain has indicated that they have the same concerns that the City of Vero Beach has.

Mr. McCabe said they always have the option of going to Chapter 164 at a later date.

Vice Mayor Neville expressed that it would be nice if they all could get along.

Mrs. Minuse noted that the County Attorney has joined their meeting and wondered if there was any comments that he would like to make.

Mr. Cotugno commented that this topic has come up time and time again. He felt that they just needed to manage their City the best that they can and spend their money the best that they can on behalf of their citizens.

Mr. Falls added that the City has received many benefits from the tourist tax dollars. There were a couple of things said at that County Commission meeting that he had some concerns with. It was stated at that meeting that the City was well aware of the policy and he does not think that is true. They were encouraged to make application for the project and did it by the deadline date. They hired a grant writer to help them with the application and incurred some expense. Prior to the application being scheduled for review the policy came out. They went ahead and submitted their application because they had prepared it. They were not aware of the process. Also at the meeting it was said that the City had budgeted for the lifeguard tower at Humiston Park and they should continue to do that and build it. He said the revenue side of that project was a donation that never materialized. The donor pulled the funding so it was taken out of the budget. Our beaches and facilities get a lot of pressure from growth outside of the City limits. The beaches get a lot of use from County residents and tourists. He agreed with the Mayor that they should continue to work with the County to resolve this. He said he would talk to Fellsmere to see if they were interested in joining them along with Sebastian.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

Mayor Brackett commented that he attended the Vero Film Festival this year and it was again very successful. He referred to the comments made earlier in the meeting about the Community Complex and referred to this Council donating money to the charity of their choice. He said they are participating with another governmental entity in building a Park. When this Park is built it will be used by many people. He is working with staff on the downtown issue that was brought up today and asked Mr. Falls to follow up with the Health Department.

B. Vice Mayor Neville's Matters

Vice Mayor Neville agreed that the film festival was outstanding. The films were entertaining and good and he appreciates the organization that puts them on. He commented on the Moonshot Moment event that was recently held at City Hall. He showed pictures on the computer that were taken at the event. He said the pictures showed third graders are a part of their community and allowing them to learn to read. This organization is making it happen. He shared his personal moonshot moment. He encouraged everyone to get behind this organization. He thanked the Senior Resources for the Goline, which is the very best run bus station in Vero Beach. He received an invitation to take a ride on the bus and they went out to the Mall where buses were congregated so they could go from one bus to another. He said the drivers are exceptional.

C. Councilmember Minuse's Matters

Mrs. Minuse reported that she attended both of the USTA Town Hall meetings. A lot of the questions being asked by the public were answered at those meetings. The City will continue setting the rates for anyone playing tennis on the courts and they would not be

forming a retail establishment. There were some people interested in parking and they were assured that there is not any sort of expansion being planned so parking should not be an issue. Some had concerns that Council was going to vote on this matter right away. They were told that there is a process. A draft proposal will first go before the Recreation Commission and then come to the City Council.

Mrs. Minuse brought up the Resolution supporting Congressman Brian Mass's effort to support the northern estuaries. It looks like his Water Resources Development Act has been incorporated into a plan just passed by the U.S. House of Representatives. It will go before the Senate now. If it passes the Army Corp would not be allowed to have discharge into the river.

D. Councilmember McCabe's Matters

Mr. McCabe also participated in the Vero Beach Film Festival. He agreed that the Go-line buses are one of the greatest assets that they have in the City and County. He totally supports Moonshot Moment. He reminded everyone that this Friday night will be Downtown Friday.

E. Councilmember Cotugno's Matters

Mr. Cotugno reported that he attended the IEMO class this weekend offered by Florida League of Cities.

Mr. Cotugno thanked the Public Works Department in helping with some cleanup work in Vero Isles.

Mr. Cotugno commented where else in the community could someone invest a million dollars and get a running track, lit athletic field, handicap playground, an innovation center to help students make their way into the world, etc. He felt that was a very worthy investment from the City.

Mrs. Minuse agreed with that. She said this is an investment in their future and involves their children.

Mayor Brackett reminded everyone about "Boom on the Lagoon" which is their July 4th event starting at 5:00 p.m.

Mr. Falls commented that a customer recently had a shark in their dingy and the Marina Director helped them get the shark out of their dingy.

13. ADJOURNMENT

Today's meeting adjourned at 12:03 p.m.

/tb